

FISCAL YEAR 1997 DEPARTMENT OF VETERANS AFFAIRS BUDGET

HEARING

BEFORE THE

COMMITTEE ON VETERANS' AFFAIRS HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTH CONGRESS

SECOND SESSION

MARCH 29, 1996

Printed for the use of the Committee on Veterans' Affairs

Serial No. 104-16



U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1996

24-924 CC

For sale by the U S Government Printing Office

Superintendent of Documents, Congressional Sales Office, Washington, DC 20402

ISBN 0-16-052855-0

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FISCAL YEAR 1997 DEPARTMENT OF VETERANS AFFAIRS BUDGET

FRIDAY, MARCH 29, 1996

HOUSE OF REPRESENTATIVES,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC.

The committee met, pursuant to call, at 10 a.m., in room 334, Cannon House Office Building, the Hon. Bob Stump (chairman of the committee) presiding.

Present: Representatives Stump, Smith, Bilirakis, Hutchinson, Everett, Buyer, Stearns, Fox, Barr, Weller, Cooley, Schaeffer, Montgomery, Evans, Kennedy, Edwards, Clement, Tejeda, Gutierrez, Bishop, Brown, Doyle, and Masacara.

OPENING STATEMENT OF CHAIRMAN STUMP

The CHAIRMAN. The committee will come to order.

Today we are meeting to hear testimony on the budget for fiscal year 1997.

The Honorable Preston Taylor, Assistant Secretary for Veterans Employment and Training in the Department of Labor, and Mr. Larry Rhea, from the Non Commissioned Officers Association, will not be here today, and without objection their statements will be included in the record.

The four panelists testifying here today will be, first, Secretary of Veterans Affairs, Jesse Brown; then Judge Nebeker of the U.S. Court of Veterans' Appeals; third, an *Independent Budget* panel with representatives from AMVETS, DAV, PVA, and the VFW; and finally, the American Legion and the Vietnam Veterans of America.

Secretary Brown and Dr. Kizer have both indicated that they have to leave at 11:30. So we are going to move right on into it.

Mr. Secretary, let me welcome you and those witnesses appearing with you today. We know that there are extraordinary demands on your time during this budget season, and we appreciate your being here today.

I would also like to express the committee's appreciation for the time spent by your officials earlier this week in briefing our staff members here on the budget for 1997. It was very helpful.

Mr. Secretary, given the difficult fiscal environment we are operating under these days, your budget request appears reasonable and adequate for maintaining quality care and services for our Nation's veterans. However, the department's management initiative and restructuring efforts will be critical to maintaining those services under the current and future funding restraints.

As you are aware, this committee has long had a tradition of bipartisanship, and I believe our members are ready to work with you on that basis, as Dr. Kizer, Under Secretary for Health, and Mr. Vogel, Under Secretary for Benefits, begin implementing their respective plans to modernize their operation.

We are continuing our pursuit of health care eligibility reform and await recommendations from the Adjudication Commission. I must honestly tell you that our bipartisan efforts have not been made easier by the level of rhetorical debate for the past year. Future budget projects are just that, both the President's and the Congress'. Blasting the budget projections of others while denying the reality or existence of our own projections is not helpful to our efforts to focus on VA health care.

We should be shifting from emphasis on infrastructure to restructuring health care delivery without needlessly scaring veterans into a position of opposing any change at all. The administration's year-out projections for VA health care spending in fiscal year 1997, I believe, are totally unrealistic. I believe they are so unrealistic as to draw in question the claim that this is a balanced administration budget.

Again, I hope the rhetoric can be toned down and we can work towards streamlining and improving the efficiency of VA health care and other benefits.

I would like to recognize the Ranking Member, Mr. Montgomery.

OPENING STATEMENT OF HON. G.V. (SONNY) MONTGOMERY

Mr. MONTGOMERY. Thank you very much, Mr. Chairman.

I might get a new watch so I will not be late next time.

I would like to welcome Secretary Brown and Secretary Vogel and Secretary Kizer and other witnesses to talk to us about the budget this morning. It is certainly important to us, and I am glad we have such a good attendance.

We were here late last night, as the members know, and our witnesses should know.

Mr. Chairman, I would like to submit my full statement so we can go ahead and hear the witnesses, but I would like to say that General Taylor, who is the Secretary's Assistant for Veterans' Employment and Training, I have something in here about the job that he is doing and that employment group under the Secretary of Labor and the progress they have made. As of the end of 1995, the unemployment rate for veterans was at 3.5 percent who could not get a job, and that is pretty good. So they are doing well over there, and I just wanted to make that statement for the record.

Thank you.

The CHAIRMAN. Thank you, Mr. Montgomery.

Mr. Secretary, we are going to go directly to you and then we will come back to the members for their statements and questions.

So you may proceed in any way you see fit.

STATEMENT OF HON. JESSE BROWN, SECRETARY OF VETERANS AFFAIRS; ACCOMPANIED BY KENNETH W. KIZER, M.D., UNDER SECRETARY FOR HEALTH; R.J. VOGEL, UNDER SECRETARY FOR BENEFITS; JERRY W. BOWEN, NATIONAL CEMETERY SYSTEM DIRECTOR; D. MARK CATLETT, ASSISTANT SECRETARY FOR MANAGEMENT; AND ROBERT COY, ESQ., DEPUTY GENERAL COUNSEL, DEPARTMENT OF VETERANS AFFAIRS

Secretary BROWN. Thank you so very much, Mr. Chairman.

Mr. Chairman, I appreciate this opportunity to present to this committee the President's 1997 budget request for the Department of Veterans Affairs.

Last year at this time I said that the President was committed to providing care to veterans, and he has met that commitment by sending good budgets to Congress. He promised that he would negotiate the VA's budget each year. He kept that promise in 1996. He proposed a \$1.3 billion increase, \$1 billion for health care and other discretionary spending, and \$300 million more for benefits.

Again this year we have a good budget. The President's 1997 budget for veterans is \$39.3 billion. That is an increase of \$1 billion above the level approved by Congress for 1996.

The President's 1997 budget proposal provides almost \$600 million additional for health care and other discretionary spending and an increase of almost \$400 million for benefits. This budget will allow us to provide our veterans with quality health care, timely benefits, and burials with dignity.

The VA's budget contains \$17 billion for medical care, an increase of \$448 million over the 1996 conference level. This budget will allow VA to treat 2.9 million unique patients the same as in 1995 and 1996. That is over 948,000 inpatient episodes and over 32 million outpatient visits.

It is important to point out that in the past we used economic models to project the level of health care we can provide. Our models showed that the budget level as approved by Congress for fiscal year 1996 would force VA to deny 88,000 sick veterans health care and 36,000 episodes of inpatient care and 800,000 episodes of outpatient care. That did not happen because of increased efficiencies and consolidations of services.

For example, we shifted our focus from inpatient to outpatient care more rapidly than expected. We restructured all of our facilities into 22 integrated networks of care to best meet local needs, and we have taken advantage of the economies of scale to purchase pharmaceuticals, medical supplies, and other provisions.

But this has not been easy, Mr. Chairman. In fact, we will lose 5,000 health care employees this year. In fiscal year 1997, we will continue restructuring to minimize the impact on veterans' health care. We will do that with 191,000 employees in medical care, a reduction of 5,154.

Funding for research will be maintained at \$257 million. We are requesting, of course, \$250 million for major construction and \$190 million for minor construction. The major construction account includes funds to meet our longstanding needs: a new medical center and nursing home in Brevard County, Florida, and a replacement hospital in California, and a clinic in Hawaii.

The major construction account also includes funding to make badly needed improvements in inpatient care environments in locations such as Wilkes-Barre, PA; Marion, IN; Salisbury, NC; and Pittsburgh, PA.

This budget reflects the first phase of a multi-year restructuring plan for VBA. The plan will improve services to veterans and reduce overall costs of operation in the future. The first phase includes ten initiatives that will be implemented beginning in fiscal year 1997 and save over \$60 million by 2002.

These initiatives are designed to consolidate various activities to provide better service at reduced costs. This will also result in a further reduction of 450 employees over that 5-year period.

I am very happy to report that we continue to decrease the time it takes to process veterans' benefit claims, and we are making improvement on the quality of ratings and other actions. VA has reduced the backlog of compensation and pension claims from 474,000 cases at the end of 1994 to 348,000 cases in fiscal year 1996, and we will continue working toward our goal of reducing the backlog to 250,000 by 1998.

In fiscal year 1997, we will process original compensation claims in 117 days, a 33-day improvement over fiscal year 1996. That is right on schedule, sir, to meet our performance goals of processing original compensation claims in 106 days by fiscal year 1998, and we will be doing all of that with only 12,076 employees, a reduction of 624 in fiscal year 1997, mainly in support services and to a lesser extent through restructuring.

Our budget request for VBA calls for \$643 million, an increase of only \$8.4 million. VA is requesting \$18.5 billion for compensation payments to 2.2 million veterans, 303,000 survivors, and pension payments to 409,000 veterans and 322,000 survivors.

The Board of Veterans' Appeals continues to address the unacceptable amount of time that it takes to process an appeal. The number of days to process an appeal has been reduced from 781 in 1994 to 675, and that downward trend is continuing.

In fiscal year 1997, we are requesting an additional 50 employees for a total of 527 for BVA. We expect that this increase in staff and the continued efforts of the employees already at BVA to reduce by 130 days the average response time on an appeal. That will drop the time from 675 days in fiscal year 1996 to 545 days in fiscal year 1997.

Our National Cemetery Service budget calls for almost \$77 million and 1,335 employees to operate 114 national cemeteries. This is an increase of \$4.3 million and 14 employees over the fiscal year 1996 level. In fiscal year 1997, we will activate a new national cemetery near Seattle and start construction on new cemeteries for Chicago and Dallas, and we will enlarge and improve the National Cemetery in Arizona.

In summary, Mr. Chairman, VA is faced with many continuing challenges, and this budget allows us, in my view, to put veterans first. Our goal remains the very best possible care and service we can give to our Nation's veterans. We owe our veterans the best that we can provide.

I look forward to working with you and the members of this committee to honor the commitment we have made to them.

Mr. Chairman, this concludes my statement, and I would be happy to respond to any question that you or members of the committee might have.

[The prepared statement of Secretary Brown appears on p. 88.]

The CHAIRMAN. Thank you, Mr. Secretary, for that presentation.

Obviously we have too many members to take 5 minutes each this morning before the Secretary has to leave. So I would ask your cooperation in limiting your remarks and questions, if you would, to 3 minutes this morning, and then if we have time left over we will come back around, but we are going to start out with 3 minutes. Mr. Montgomery.

Mr. MONTGOMERY. I only have one question. Mr. Secretary and maybe Dr. Kizer, you do say that even though you are shutting down beds and closing wards, you still will be able to take care of the veterans, and I have before me clippings from Portland, Oregon all the way to North Carolina of where the VA is shutting down beds, laying off people.

Can you still take care of the veterans? And I guess you are going to tell me it is the money problem, but I am concerned. We have been closing beds for the last 5 years, and it has got to stop somewhere, I believe.

Secretary BROWN. Well, of course, I am going to ask Dr. Kizer to respond, but before I do, Mr. Montgomery, let me preface his remarks by saying that, yes, we are decreasing beds, and that is, in part, based upon a phenomenon that is taking place all across the medical industry where increased emphasis is being placed on outpatient care as opposed to inpatient care.

In that context, I think that it is also important that we look at the law that is presently on the books that requires the VA to maintain approximately 90,000 beds in operation. I think that is inconsistent with the direction that health care delivery, particularly acute care beds, is going in this country and, in fact, in the entire world.

To respond to your question, the answer, of course, is, yes, it is money. The bottom line is that we could make anything work in terms of resources that are provided for us, but the problem with that is that it will have the effect in the end of locking veterans out of our facilities.

If you will look at the VA historically, you will see that we have provided care to approximately an increase of veterans of about 1½ to 2 percent each year. For the first time in many years and maybe for the first time, period, beginning in 1995, we are not basically allowing any new people into the system. It is still locked in somewhere at 2.9 million unique patients. That was in 1995-96, and we made the same projection for 1997.

Now, obviously with the decrease in funding, we are becoming very, very efficient, and based on these efficiencies, we basically have not had to deny care to many of the people who we normally would have.

I see my red light is on.

Mr. MONTGOMERY. Actually, Mr. Secretary, my time is up, and we should keep to the light. So, Dr. Kizer, somebody else will have a chance to further answer that question.

Is that all right?

The CHAIRMAN. That is fine. Thank you, sir. Mr. Bilirakis.

OPENING STATEMENT OF HON. MICHAEL BILIRAKIS

Mr. BILIRAKIS. Thank you, Mr. Chairman.

Mr. Secretary and Dr. Kizer and Mr. Vogel, et cetera, welcome. It is always great to see you.

Mr. Secretary, I sometimes wonder if you do not sometimes kick yourself for leaving the veterans' service organization job and going in to take over this cabinet position.

Secretary BROWN. It has been tough.

Mr. BILIRAKIS. It is an awfully tough job, and maybe the toughest when you stop to take everything into consideration.

Secretary BROWN. Yes, sir.

Mr. BILIRAKIS. Mr. Secretary, last week Dr. Kizer appeared before us, and we talked, and I am just going to try to make it as brief as I can. I have some specific questions that maybe if I am here for the second go-around, I can go into spinal cord injury and things of that nature, but in general now, we talked last week about the fact that States like Florida are the recipients of an awful lot of people that we call fondly "snow birds," who come down just for the winter months for obvious reasons. All we have to do is step outside today and we can see what the obvious reason is.

So they tax our facilities, and an awful lot of these people are accustomed to getting the proper medical care services where they come from, and then they come down there, and they have a hard time even getting served. Of course, many of them are served, and then some of our local people who are there 12 months out of the year are not able to get the service that they have really earned.

You know, Dr. Kizer acknowledged all of that and indicated the present concept was not working as it was designed. He also talked about the capitation system and indicated that it would be in effect by the year 1998.

Secretary BROWN. That is correct, sir.

Mr. BILIRAKIS. That is correct, which means that it is being phased in now?

Secretary BROWN. Yes, sir. Where we are now, right at this point we are at a blended rate. We are using a blended rate formula, and we expect to use that formula for 1996 to 1997, and we have a target of 1998 to be able to have a capitated formula to apply across the system.

Mr. BILIRAKIS. And that would be the beginning of the fiscal year 1998; is that what we are talking about or the calendar year, not that it makes that much difference?

Secretary BROWN. It is the fiscal year.

Mr. BILIRAKIS. Fiscal year?

Secretary BROWN. Yes, sir. I might add one thing, sir. Everything that you said about Florida is correct, and Dr. Kizer recognized that early on, and with this blended rate, Florida actually gets about twice the increase of the other hospitals across the system. The other hospitals get a little over 2 percent, and Florida is going to get about 5 percent.

Mr. BILIRAKIS. Yes. Well, we can certainly see why.

Secretary BROWN. Yes.

Mr. BILIRAKIS. Might I then be able to walk in some time soon to the two hospitals in the Tampa Bay area, for instance, which are not even in my congressional district, but obviously many of those veterans come from our district, but would I be able to walk in to James Haley in Tampa or Bay Pines in St. Petersburg and see or they could show me a difference in terms of funding as a result of the capitation system being put into effect?

Secretary BROWN. We do not know at this point. You take, for instance, even with the blended rate what we think happens, and we discussed this. Why don't I let Dr. Kizer? Why don't you go ahead?

Mr. BILIRAKIS. I guess very quickly because the yellow light is on. There it is. Well—

The CHAIRMAN. Go ahead and answer the question.

Mr. BILIRAKIS. Thank you.

The CHAIRMAN. Dr. Kizer, go ahead and answer the question. That is fine.

Dr. KIZER. It's premature to project the effect that capitation funding will have in Florida. As the Secretary noted, under the blended rate scenario there are increases going to Florida facilities this year that are greater than those going to facilities in other parts of the country.

Mr. BILIRAKIS. So they are going now?

Dr. KIZER. Yes. That is in effect in this fiscal year.

Mr. BILIRAKIS. All right. Thank you, Doctor. We will get into it further. Thank you very much.

Thanks, Mr. Chairman.

The CHAIRMAN. Mr. Evans.

OPENING STATEMENT OF HON. LANE EVANS

Mr. EVANS. Thank you, Mr. Chairman.

Mr. Secretary, as you know, the recent report by the National Academy of Science, Institute of Health found limited or suggestive evidence of an association between Agent Orange exposure and the occurrence of spinal bifida perhaps in their children. This is an unprecedented problem that we are dealing with, but one that may have future implications as far as Persian Gulf veterans are concerned.

I understand that you have set up a task force on this issue. I applaud you for doing so. I hope that you will give it the mandate to see that appropriate forms of assistance are provided so that the Government can provide for these children and their families. This should be considered in the task force efforts.

I also hope that you can include service providers in the task force who have experience in care and case management for those afflicted with spinal bifida.

However, concerning the widespread implication of the report's findings, do you believe that we need to get other federal agencies to participate in your review to get their input?

Secretary BROWN. I am going to ask Dr. Kizer to respond to that.

Dr. KIZER. The task force is set up and, by the way, does include representatives from other federal agencies, such as the Centers for Disease Control and the Environmental Protection Agency and NIH, and will meet for the first time next week.

This is a scientific group that is tasked with conducting a scientific review of the specific data that the IOM reviewed. At this point, because this is really a technical review, the intent was not to include representatives from potentially impacted groups. Depending on the outcome of this scientific review in the department, then it would be appropriate at a later time to perhaps include those, but this is really a technical review.

I would just add also for your information, since I would not expect you to know this, that I am quite familiar with the issue of neural tube defects. In my former life in California, we set up the largest neural tube defects screening program in the world, as well as the largest birth defects screening program in the world. So it is something that I am quite familiar with and will be looking very closely at as we move forward.

Mr. EVANS. All right. Mr. Secretary, I appreciate that approach, and we look forward to working with you on this issue.

I have some other questions that I will submit in writing, Mr. Chairman. I appreciate it.

The CHAIRMAN. Without objection. Absolutely. Feel free to submit questions for the record. Mr. Hutchinson.

OPENING STATEMENT OF HON. TIM HUTCHINSON

Mr. HUTCHINSON. Thank you, Mr. Chairman.

I would ask unanimous consent to submit my opening statement for the record. Mr. Chairman, Without objection?

The CHAIRMAN. Without objection.

[The prepared statement of Congressman Hutchinson appears on p. 67.]

Mr. HUTCHINSON. Mr. Secretary, thank you for being here today, and I want to thank you for your hospitality in my recent visit down to the VA and the tour that you gave me and the opportunity to visit with you.

I also want to express my appreciation to Dr. Kizer for the very good appearance that he made before our subcommittee last week and his testimony and his candor in issues facing the medical care of our veterans, and so we appreciate that very much.

We appreciated the opportunity to have a frank discussion with you concerning my concerns, our concerns, the concerns expressed by my Chairman regarding too much politicizing within the VA, and let me just make a couple of observations, and then I do have a specific question or two.

When I look at the administration's budget submission, I find a couple of things noteworthy to me. One is that it is very comparable in total increases to what we had suggested in our Balanced Budget Act last year. In fact, it is somewhat less than what we had passed as part of our 7-year balanced budget plan, a budget that at that time you called mean spirited, a number of other things and devastating to veterans.

The budget submission that we have from the administration is quite comparable to that. Particularly in the hospitals and medical care for veterans. I have a little chart here, but the phenomenon I call the Big Dipper, because what we see is that spending drops from fiscal year 1997, in which it reaches its high point in your

budget submission, at \$17.3 billion on medical care for veterans, to a low in the year 2000 of \$13.1 billion.

Now, that is a 33 percent drop in medical care spending in that budget submission during those years, 1997 to the year 2000, before it begins to turn upward to fiscal year 2002, coming back up to the \$17 billion figure. That is a very precipitous drop and then upturn, which would cause me grave concern.

It is a far more precipitous decline than what we would see under our views and estimates or the Balanced Budget Act that we passed last year in which health care spending was kept constant during the 7 years of the plan.

So, I think when you look at the increases that we recommended in our views and estimates for health care, we recommended an increase of \$505 million and your budget recommended an increase of \$448 million. In construction we recommended an increase of \$179 million; you had \$105 million. On medical research, there was no increase in the President's budget, while we increased it by \$10 million. The total of \$1.3 billion increase that we recommended is at about \$996 million in the budget submission.

So in view of that, it seems to me that the thing about calling mean spirited, devastating and so forth, that we need to really back off of that kind of overheated rhetoric. I hope that that will be the case as we go through this budget process.

One comment that you made was that you are going to negotiate this VA budget each year and that the President has given that commitment, but what troubles me about that is that any kind of 7-year balanced budget plan submitted by the administration, if those kind of commitments are being made to Secretaries that they are going to be renegotiating those budgets year by year, it would seem to me the total 7-year balanced budget plan would be kind of a farce if it is being renegotiated year by year in various departments.

So I think that the kind of firm commitment to veteran spending and to veterans' health care is what is necessary, not vague promises that these things will be negotiated over time.

One specific question—well, I will save it. I will bring it up next time. Mr. Chairman, if you will let him respond since I took my whole 5 minutes.

The CHAIRMAN. You are free to respond, Mr. Secretary.

Secretary BROWN. Thank you.

Mr. Hutchinson, I do not agree with your analysis of the numbers, first of all. It seems to me that the numbers that you are referring to, you are talking about are recommendations from this committee. What we have to do is to look at the enacted numbers and what we have to operate on.

The bottom line is this. For 1996, the President, in terms of just health care, asked for \$1 billion, just for health care, and what was enacted that came out of the conference that we ended up with, and this is for health care and discretionary spending; what came out of conference was \$85 million.

Now, when you look at the amount of money that was available just for health care, your numbers that you were referring to were somewhere around or the conference numbers were around \$400

million. That was less than what we had asked for. That is for 1996.

Now, for 1997, as I have mentioned to you, in this case the President has asked for \$1 billion, \$600 million of that for discretionary spending and health care. We think that that is a pretty good number.

With respect to your comment about the out-years, now, that is very interesting. I stand by everything that I said because those numbers are devastating. If we use the formula that you talked about where you straight line the VA for the next, let's say, 7 years, it is interesting. Here in the Appropriations Committee report, it says that this is a one-time adjustment. They are talking about the conference, the \$400 million. This is a one-time adjustment to permit the VA to undertake the necessary planning and the required adjustments to anticipate future year allocation levels.

That basically means we are going to be locked in at the 1995 level for the next 7 years with the exception of that blip that you talked about in 1996. If we do that, based on the economic models that we have, now, we need to make some adjustments there because Dr. Kizer is moving forward on some efficiencies, as I mentioned in my opening statement. It would devastate the VA.

The President's out-year numbers, last year's out-year numbers, would devastate the VA. The numbers that are contained in the 1997 out-year numbers would devastate the VA.

So the difference here is that the out-year numbers in terms of their impact on the VA regardless of which numbers we use, devastates the VA. The only difference that I see is this. One proposal would lock us in for 6 years. The other proposal, which the President placed on the table, said: look, veterans of the Nation, I will negotiate these numbers with you every year, and he did it in 1996 and he did it in 1997.

So I think in that context we have to look at what is best for veterans and where veterans will have some flexibility, and I think, of course, the President's approach is the best one for veterans.

The CHAIRMAN. Mr. Edwards.

OPENING STATEMENT OF HON. CHET EDWARDS

Mr. EDWARDS. Mr. Secretary, I want to thank you as one member of this committee for being an outspoken advocate on behalf of veterans, and I can think of few people in this country who could do so with greater credibility than you, considering your service record and your post-service record to our Nation's veterans.

I do not have any problem with an honest debate and even a disagreement of opinion with you over the future of our veterans' programs. That is what veterans fought for, so that we could have that healthy debate.

I take great umbrage at any effort to gag you or your office because you have been an advocate for veterans. Specifically I would like to ask you about the House-passed language, which I am disappointed to say we attempted to amend, but we were defeated by a party line vote. The House-passed language in the omnibus appropriations bill, micro manages your office for the first time to my knowledge in the history of that office, and fortunately the Senate did not try to micro manage or put a gag rule on your office. But

if that House-passed language becomes law, could you tell me not the impact upon you personally, but in your honest opinion what the impact would be upon service to the veterans of our country?

Secretary BROWN. Yes, sir. On me personally, it really does not matter because I am going to do what I feel is best, what is in the best interest of veterans. So it does not matter what happens to me personally.

But what really bothers me and what really kicked me in the stomach, knocked me down and stomped on me was the fact that they included language to punish me that would force the VA to furlough almost 200, most of them career employees, for 2 days a week for the rest of this fiscal year. That is wrong, to take the average of \$12,000 or 40 percent of their pay because they do not like Jesse Brown and his advocacy for veterans.

That is wrong, sir, and I would hope that we look at this very, very carefully, as has been suggested by several members of this committee, that we get away from this rhetoric and we try to figure out what is right for veterans.

I am not so naive to be here and not recognize that you have some difficult problems. There is only so much money to go around, and that we have to work it out, and I am just trying to fight to get as much of that money as I can for these veterans, these old guys and these ladies who have served the Nation and served it well.

Mr. EDWARDS. Well, thank you, Mr. Secretary. I yield the remainder of my time to Mr. Montgomery.

Mr. MONTGOMERY. Just for the record, it certainly was not this committee that was vindictive. It came out of the Appropriations Committee. Generally you have the total support from the Chairman on down, for all veterans and for veterans issues, and it was not this committee that kicked you in the stomach.

The CHAIRMAN. Mr. Everett.

Mr. EVERETT. Thank you, Mr. Chairman.

I choose to use my time, rather than with politicizing remarks, to get to some real serious issues, which Mr. Vogel will tell you that I am very concerned about, and that is the management of the computer modernization program.

Let me ask you, Mr. Secretary: how much money has been spent in this program since 1986? And what have the taxpayers' investment received for it?

Secretary BROWN. I am going to ask Mr. Vogel to respond.

Mr. EVERETT. Certainly.

Mr. VOGEL. Mr. Everett, since 1985 when we inaugurated a modernization, we have spent in total \$298.7 million.

Mr. EVERETT. Mr. Vogel, do you remember what less than a year ago your first estimate was on how much had been spent on that program?

Mr. VOGEL. Yes, I do.

Mr. EVERETT. Would you give me that figure?

Mr. VOGEL. I gave a figure of about \$300 million, and it was an estimate.

Mr. EVERETT. I think the record will show that the figure I received was \$147 million.

Mr. VOGEL. It depends on what you score up as modernization. One hundred two million dollars was spent just putting work stations on all employees' desks. Now, that comes under the rubric of modernization because somewhere along the line we chose to describe all of our IRM actions as modernization.

Modernization really was an attempt to move out of a proprietary, vendor-dependent computer system to an open architecture so that we could make changes and did not have to pay the licensing fees to Honeywell, did not have to pay high maintenance contracts to Honeywell.

We have now virtually completed that phase. Our regional offices have local area networks that allowed them to put those PCs in place and begin word processing. IMAGING will be piloted this year in two sites, and my request for 1997 is \$4.2 million, the lowest amount that we have ever requested, and that is true modernization monies.

That will replace the payment system, and it will put a claims processing system into place. We then will migrate all of our software applications to the Austin Automation Center to run them on existing systems already in the possession of VA.

Mr. EVERETT. Mr. Vogel, let me interrupt you. Rather than get into a real detailed explanation of that, we will have hearings later on.

Mr. Secretary, let me ask you. You have made reference to the decrease in claim processing time. The budget submission projects a 50,706 decrease in new C&P claims for fiscal year 1997 and a decrease of 70,000 in the backlog. The fiscal year 1996 numbers, as you know, look pretty much the same.

However, it appears that about three fourths of the backlog reduction is solely because of fewer claims coming through the door. Is that an accurate description?

Secretary BROWN. Mr. Vogel.

Mr. VOGEL. Mr. Everett, there is some decrease in the number of claims because largely the military downsizing is completed, but what we did not process for the last 2 years was eligibility verification reports, a report that a needs based beneficiary by law had to submit to the VA in order to continue to get pension or parents' DIC. So there are 550,000 work actions that we did not have because we got a change in the law so that we did not obligate people to report to us their earnings when we already know what their social security and VA benefits are. So there is a decrease in work incoming.

Mr. EVERETT. So many questions and so little time. Let me just close, Mr. Secretary, by saying that Mr. Vogel and you are well aware of my interest in seeing that this time is decreased. I do not, as I've stated publicly, I do not think 106 days is a reasonable time either, and we can explore this in our committee hearings that we will have later. We perhaps can get into more detail on how much of this money has been actually contributed so far to the decrease and also how much money we will end up spending for this program.

Thank you, Mr. Secretary.

Secretary BROWN. Thank you, Mr. Everett.

Mr. EVERETT. Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Tejeda.

OPENING STATEMENT OF HON. FRANK TEJEDA

Mr. TEJEDA. Thank you, Mr. Chairman.

Mr. Secretary, I want to commend you for your outstanding service to our veterans, and at this time I would like to say that I want to commend you also for proposing an increase in the National Cemetery Service and FTEE.

Let me ask: will the \$4.3 million increase proposed for fiscal year 1997 enable the NCS to reduce its equipment backlog, and is a portion of the increase in construction funding for the NCS earmarked for development of additional acreage at existing cemeteries?

The reason I mention that is that in San Antonio, the National Cemetery is quickly running out of space, but 53 additional acres will be transferred soon from the adjacent military installation, Fort Sam Houston. However, the land must be developed, and I was just wondering, and perhaps Mr. Bowen can help in that, will that \$4.3 million increase enable the NCS to reduce its equipment backlog.

Secretary BROWN. Jerry.

Mr. BOWEN. It will not allow NCS to reduce the backlog, but it will allow NCS to spend \$1.0 million on replacement equipment. What is going to happen with that money since we are essentially frozen in fiscal year 1996 to spend at the 1995 level, with the increase, as you mentioned, of the \$4.3 million in 1997, it really will let us take care of what we were not able to get done in 1996. It will permit us to take care of the increased workload that we anticipate in 1997.

For the last 13 years, we have experienced an increasing workload, the number of burials, the number of acres maintained, and the number of grave sites maintained. For example, the average increase in the number of interments has been 4.2 percent over the last 13 years; and last year, in 1995, the last complete year, it was 2.75 percent.

So to answer your question, the backlog will hopefully remain at a manageable level, but we will not be able to decrease it any from its current level.

Mr. TEJEDA. One last question. In San Antonio, the VA is reaching out to veterans through a sharing agreement with the county hospital system. However, more needs to be done to reach out to veterans in South Texas, especially in the Brownsville area, and I was just wondering are we planning anything for South Texas?

Mr. BOWEN. As far as the national cemetery system is concerned?

Mr. TEJEDA. No, just overall.

Secretary BROWN. For hospital care?

Mr. TEJEDA. Yes, that is correct.

Secretary BROWN. I am going to ask Dr. Kizer to respond to that, but let me just say this. It is interesting that we already have about 15 what we refer to as community-based clinics that are out there which are going to allow more access into the system. We have before this body now, before Congress, our request for approval of 58, and I think that is consistent with our long-range plan to give real meaning to the word "access."

Dr. Kizer, do you have anything further you would like to add to that?

Dr. KIZER. I would just add very briefly, as we make the transition from a hospital based, fragmented, specialty care oriented system to one that is ambulatory care based with the foundation in primary care and continuity of care, we are looking very aggressively at being able to site community-based clinics that will provide better access and better care for our patients.

Mr. TEJEDA. Thank you.

The CHAIRMAN. Mr. Fox.

Mr. FOX. Thank you, Mr. Chairman. I would like to submit my statement for the record and ask unanimous consent for that purpose.

The CHAIRMAN. Without objection

[The prepared statement of Congressman Fox appears on p. 86.]

Mr. FOX. I want to thank the Secretary for being here today. We appreciate your leadership, and I will submit further questions for the record.

The CHAIRMAN. Thank you, Mr. Fox. Mr. Mascara.

OPENING STATEMENT OF HON. FRANK MASCARA

Mr. MASCARA. Thank you, Mr. Chairman.

And, Mr. Secretary, welcome. It is nice to see you.

Like many here, I would feel better if we had the fiscal 1996 budget resolved before we begin talking about the fiscal 1997 budget. I do not think this lurching from continuing resolution to continuing resolution is serving the best interest of our veterans or meeting their needs.

I, for one, wish this madness would stop, and I think, Mr. Secretary, if the members of this committee had anything to do with the situation, we would have worked together in a bipartisan fashion and agreed to a fiscal 1996 appropriations figure a long time ago.

I am very pleased that the President is seeking a nearly \$1 billion increase in the VA funding, and that this includes a boost of \$448 million in spending on VA medical care.

I am also happy that the administration is proposing the VA health care system be allowed to retain a portion of the third party payments it receives for providing health care services. Virtually each member of this committee supports allowing the VA to keep this money.

We think this move, along with the changes in the eligibility requirements, will help open up the VA system to countless veterans. It is a good move, and I hope you will seriously consider including Medicare and Medicaid payments in this proposed program.

Now that I have voiced praise for those aspects of this proposed budget, I must also express some grave concerns. I am troubled that this budget will apparently lead to a continuation of a substantial reduction in force already experienced by the VA over the last several years. In meetings and committee hearings over the last few months, it has become increasingly clear that the VA is continuing to have problems processing disability claims, paying Montgomery GI benefits in a timely and efficient manner, and keep our country's veteran cemeteries in top shape.

It is also clear your department is struggling to meet increased outpatient medical visits and smoothly carrying out the much needed reforms in the VA health care system.

While I am all for efficiencies and running your department as effectively as is humanly possible, the truth is you need more money. Our committee recognized that several weeks ago when we approved a budget recommendation of \$600 million more than what the administration is seeking.

From what I know, I am beginning to think maybe an additional \$1 billion would be more realistic. I see that brings a smile to your face.

Our veterans have given us their best, and now it is our turn to do the same for them. I think we really have to make every effort to see that your department gets the funds it needs to adequately meet its needs.

My question is: given the retainage of third party payments, how would that help, if at all?

Secretary BROWN. Obviously, as you mentioned, we are taking advantage right now of any efficiencies that we can capitalize on, but that is only going to carry us so far. We did it for 1996. We are doing it again for 1997, and we do not know what effect it is going to have for anything beyond 1997.

So we are looking for new funding streams, and one of them, as you mentioned is the third party reimbursements where we would be able to retain 25 percent of new revenues from Category A's and 100 percent of revenues from Category C's. Now, this is, of course, once we meet our baseline, which is about \$600 million. The first \$600 million will go straight into the Treasury as always, less our administrative fee. So that will help a little bit.

We do not expect to generate too much money, about \$5 million a year on that, but at least it is moving in the right direction, and we would just love to be able to be reimbursed from the Medicare Trust Fund. We think that that could take place without having any impact whatsoever on the Medicare Trust Fund.

We are looking at Category C's. They are already locked out. They are going to pay for their care in the private sector. They can come to us. We can provide that care cheaper, which would, in fact, save the taxpayers money.

So we think that they should look at the VA as a model and look at it as an opportunity to generate additional savings, and we could do that if we are able to get reimbursement from Medicare.

The CHAIRMAN. Mr. Cooley.

OPENING STATEMENT OF HON. WES COOLEY

Mr. COOLEY. Mr. Chairman, I ask for unanimous consent to submit my statement for the record.

The CHAIRMAN. Without objection.

[The prepared statement of Congressman Cooley appears on p. 80.]

Mr. COOLEY. What I would like to ask Secretary Brown and probably should ask Dr. Kizer, is out in the West, as Mr. Montgomery has stated previously, we are shutting down facilities or downsizing, tremendously downsizing, and some of our veterans

are having to drive literally hundreds of miles in order to get any kind of service.

Are we really aggressively trying to get local community care for those small communities who do have adequate hospitals who could take care of some of the problems? Are we really trying aggressively to address this so the veterans who are in the more sparsely populated areas and really literally have to go hundreds of miles can have some kind of services without having to spend maybe 2 days to go to Portland, Oregon or Boise, Idaho to get some kind of services here?

I would like to know how we are doing in that area. It is very important to the western part of the country.

Secretary BROWN. I think we are doing very, very well. We are expanding our access capability. I think Dr. Kizer has a wonderful reorganization plan. I am going to ask him to explain it.

Dr. KIZER. I think we have talked before about some of the incentives and the underlying principles of the new integrated service network, and I will not take the time now to repeat that, although I would be happy to talk with you further if you would like more on that.

I would just, in direct response to your question, note that we are, indeed, trying to do the sort of thing that you talked about. We need some help. The Appropriations Committees have asked to review our proposals for new access points or new community care clinics and we currently have submitted a list of 58 that we are seeking approval for. We think that this year it would not be unreasonable to establish many as 200 of these points. We will be in a position to submit that many to the Congress for approval. That would greatly enhance the access and the availability of VA care.

We also need legislation that was introduced last year that would give us expanded authority to enter into sharing agreements and contractual arrangements with private providers and others that would, indeed, do many of the things that you are suggesting. That was a piece of legislation that was passed by the House and introduced in the Senate last year but was not enacted. If we had the ability to basically enter into any sort of agreement with any provider that worked best in providing patient care, there are all kinds of creative things that we could do that currently the law does not allow us to do.

Mr. COOLEY. Mr. Chairman, one question.

Dr. Kizer, could you or would you mind sending me some of this information so I could pursue that area, and also would you send me a list of hospitals in the western part of the country that are being considered and need congressional approval for use in your services?

Dr. KIZER. Certainly. I would be happy to.

Mr. COOLEY. I would really appreciate that because I would like to pursue that.

Secretary BROWN. Mr. Cooley, in addition to that, if it will help you, we will send a team to brief your staff on exactly how this concept works and give you all of the details if that would be more helpful.

Mr. COOLEY. Thank you very much, Secretary Brown. I really would appreciate that.

Secretary BROWN. We will do that, sir.
 Mr. COOLEY. Thank you.
 The CHAIRMAN. Mr. Buyer.

OPENING STATEMENT OF HON. STEVE BUYER

Mr. BUYER. Thank you, Mr. Chairman.

I have three concerns I would like to take up. First is the issue of the transfer of the central office of the Education Service outside the District of Columbia. To me that makes no sense, and I hope you will reconsider the move and you will take a good look at that.

Secondly, on the issue of vocational rehabilitation, I note your budget submission supports 30 fewer VRC and staff than last year, and I have some real concern about that, and I want you to take a look at that.

Third, I want to take a step back from this and say that I serve on the Judiciary Committee. It is one of the most partisan committees in this Congress, and it is ugly, and I do not like it.

I love this committee. I love this committee because I get along with every Democrat over there, and I associate myself with Mr. Mascara's comments here this morning.

What I want to note is there is a difference between advocacy and partisanship, and I want to publicly express my disappointment in the politicalization, what I see as politicalization, of your office. I am just going to say it.

And when you are out on the stump and you make a lot of these arguments and you throw out the rhetoric and you throw out the words of mean spirited, it is easy for me to take your words and throw them right back to you and say that, you know, sir, you just said that the President's out-year numbers will devastate the VA. Then I guess what that means, using your words, is that the President's out-year budget is mean spirited.

So you have to be careful. It is a two-edged sword, and if you are going to take the veterans' issues into the realm of politics in which they do not belong, if you want to do that, then it taints the process, and I could be very callous and look at all of these out-year budget numbers and say, "How can you say that what we are doing is mean spirited if your budget projections from the administration are \$8 billion less than what the Republican budget is?"

And I can also be very callous and look at it and say, "Are you asking for a \$1 billion-plus up in a presidential political season?"

But I do not want to get into all of that because that is what is bothersome to me. So I just want you to know that.

And here is the other thing. When I said the difference between advocacy and partisanship, and I will note this, I note that a telephone is two-way, but I am a subcommittee chairman. Here is a subcommittee chairman. There is a subcommittee chairman. You have never called the three of us. I have never been called.

If, in fact, the advocacy is real and the sincerity is real, the phone call has never been there. I am more than prepared to bridge anew. I am very prepared to do that with you, sir, but I want you to know my feelings because the veterans for which you serve, and the sincerity, the veterans for which we serve on this committee are very real.

And I would be more than happy, if I have any time, Joe. Go ahead.

Mr. KENNEDY. Yes. I mean I just think that it is interesting to hear everybody on the Republican side talk about not politicizing the issue and then, you know, one after another go and attack the Secretary, and the Secretary, it seems to me, has been very even handed in terms of how he has handled this. You heard him say this morning that the budget that the administration is going to submit, in your own words, is going to devastate the VA. You have got every veteran service organization has endorsed the actions that Secretary Brown has taken in terms of trying to defend the Nation's veterans against budget cuts that are going to come as a result of the balanced budget that has been submitted and the devastating effects of the reductions in discretionary spending.

Mr. BUYER. But reclaiming my time, Joe.

Mr. KENNEDY. That is what the problem is.

Mr. BUYER. You are right. That is what the problem is. The Secretary is having to face declining budgets out there, devastating in the out-years, but what needs to match is if he is going to say that our proposals are mean spirited, let's look at the reality of the facts.

I get to go home. We are all going to go home. Do you know what I love about going home? I live in luxury back in Monticello, IN because words have meaning. So we want to make sure that the words that are spoken, in fact, are factual and they are substantive, and if it is advocacy, I love advocacy. That is why Chet Edwards and I get along so well, but let's take the partisanship and leave it out the door.

Thank you, Mr. Chairman. I apologize.

The CHAIRMAN. Thank you. Mr. Gutierrez.

Mr. GUTIERREZ. Thank you very much, Mr. Chairman.

Mr. BUYER. The Secretary was prepared to respond, I think.

Mr. EDWARDS. Mr. Chairman, would it be possible in fairness to the Secretary to just let him respond? I think the gentleman raised legitimate questions.

The CHAIRMAN. I apologize if I did not. Mr. Secretary, please do.

Secretary BROWN. Well, Mr. Buyer, I stand by everything that I have said. I do not back away from the rhetoric. I agree with you in certain instances on both sides. It has raised to a level that is very, very uncomfortable, and I think that the whole process could be well served without it.

But I have to tell you or let me tell you what I view as being labeled as political. When we look at a process where the whole philosophy has changed, and that is what has happened here, we are now more interested, and maybe rightly so, in balancing the budget and paying for a tax reduction. So we have got to find these savings somewhere.

And so when you come to the veterans and you start looking at that \$38 billion, \$17 billion in health care and \$17 billion on the benefits side, then people start saying we need to take a little bit here. We need to redefine service connection. We need to possibly eliminate tens and 20s. We need to force the VA to make massive and traumatic restructuring because of lack of resources.

And what I am saying is that when I resist that, and I will resist it; I will continue to resist it as long as I have this job; then I am being called political, but from my own personal standpoint, sir, the only stake I have here is just trying to do the best that I can to protect veterans and their families as we move through trying to sort out this whole process, and I do not think it is political. As a matter of fact, I just think that it is doing what I am supposed to be doing, and that is looking out for veterans and their families.

The CHAIRMAN. Thank you, Mr. Secretary.

Mr. Gutierrez, can I give Mr. Weller one second? He has to leave. He is just going to submit.

Mr. WELLER. Thank you, Mr. Chairman.

I just want to ask unanimous consent to submit my statement for the record, as well as some questions regarding veterans' outpatient services in Illinois.

The CHAIRMAN. Without objection.

[The prepared statement of Congressman Weller appears on p. 87.]

Mr. WELLER. Thank you.

The CHAIRMAN. Mr. Gutierrez.

OPENING STATEMENT OF HON. LUIS V. GUTIERREZ

Mr. GUTIERREZ. Well, thank you very much.

It is a pleasure to see you here this morning, Mr. Secretary, and I simply suggest you keep fighting for veterans. I applaud you each and every time I see you fight for veterans. I think that is your job.

And I do not know how at this particular hearing. All of us get elected to our offices, and we talk about let's not get political, but we are political at the very same time. I just do not know how you make a dichotomy between one thing and the other.

It is about public policy. It is about a budget, but I would like to thank you, first of all, for your assistance on the national memorial to the brave veterans of the 65th Infantry that served in Korea from Puerto Rico, and I would like to thank you, and I would like to thank you for agreeing to participate today in a day of affirmation of the Puerto Rican community at the Vietnam Memorial, and I look forward to being there with you later on in the day, and I want to thank you.

I have one question to ask you about the Persian Gulf. The VA generally has won plaudits from the President's Advisory Committee on Persian Gulf War Veterans. Many Gulf War vets feel that the VA is not giving them the care or consideration they deserve.

For example, many vets are concerned that their ailments are considered to be stress related by the VA as a whole, and the fact remains that claims for compensation are not being approved. Just recently the American Legion testified in front of the Subcommittee on Human Resources and Government Relations that of 115 undiagnosed illness claims by Gulf War vets, 96 percent of them were either partially or totally denied.

Could you explain to the committee how you plan to address these perceptions and concerns of Persian Gulf veterans?

And would you also agree to come back before this committee so that we can specifically review the VA and the DOD's efforts to

provide care to vets and to find the cause of these mysterious ailments?

Secretary BROWN. Yes, sir. On the second part, we certainly can do that.

On the first part of your question, which has to do with the denial rate, you are absolutely right. It is, in my view, unacceptably too low. We have a lot of experience with it now, and we have been able to identify those areas which cause the VA to deny these claims, and I am going to ask Mr. Vogel to give us a brief summary.

Mr. VOGEL. By law we can provide compensation for undiagnosed illnesses which arose within 2 years of leaving the Gulf. What we find is that the condition manifests itself after 2 years if there is one. Most of the time we do get, in fact, a diagnosis that was described as a flu syndrome. There are no residuals to it, and we are doing a careful review of those cases. I bring them in and have my best people look at them.

We just do not have very many cases with undiagnosed illnesses. The good news is the doctors find out what ails them now and take care of it, and it is frequently described in an acute episode.

Some numbers of Persian Gulf veterans receive compensation. There are about, of all the claims made, 1,000 receiving compensation just for respiratory ailments, largely attendant to the oil fires and things like that.

But dealing with undiagnosed illness and compensation is new ground for us. We have never in our long history of providing veterans' compensation for service related ailments dealt with undiagnosed illnesses, and I think, like the Secretary suggests, we welcome a look. We are going to do reviews, and if we need to make amendments to the law that provides for that compensation, we will, in fact, be supportive of that.

Secretary BROWN. There is one area that we need to look at. For instance, we have a 2-year statutory presumptive period, and most of the people that we are denying, a large percentage of the people that we are denying, do not have the disease within that 2-year period. So we are looking to see do they have it in the third year or the fourth year, and maybe that would indicate there is a need to take another look at the whole process.

Mr. EVANS. Would the gentleman yield for a second?

Mr. GUTIERREZ. Yes.

Mr. EVANS. Can you supply us that information as to how many people may have been denied because of the 2-year limitation?

Secretary BROWN. Yes, sir, we sure can.

Mr. EVANS. For the record, if you will.

Secretary BROWN. Yes, sir.

(The information follows:)

Denials Under Two-Year Limitation

Through March 31, 1996, there were 5,272 cases reviewed under the undiagnosed conditions provisions of Public Law 103-446, that were disallowed because the claimed condition did not manifest itself while the veteran was on active duty or during the 2-year presumptive period.

Mr. GUTIERREZ. I think that would be very good for us so that we could work more collaboratively with you in changing the rules

because I know we are all very concerned about the Gulf War vets, and we argued and fought about it, and now we have a policy that we are going to respond to them.

So thank you very much, Mr. Secretary, and I look forward to seeing you later on in the day.

Secretary BROWN. Thank you, sir.

The CHAIRMAN. Thank you.

One reminder that we do have Judge Nebeker to go and two other panels before too many members leave, and for those who came in a little bit late, we remind you we are operating under a 3-minute rule instead of a 5-minute rule because both the Secretary and Dr. Kizer have to leave at 11:30. We have six people left. We are right on schedule.

Mr. Stearns.

Mr. STEARNS. Thank you, Mr. Chairman.

I appreciate your comments when you said the President's numbers last year would devastate the VA, and I think you said that same thing in the Appropriations Committee.

Secretary BROWN. Yes, I did, sir.

Mr. STEARNS. I think what Mr. Buyer was referring to back in my congressional district is that we are getting faxes and letters from your office saying Republicans will devastate the VA.

Secretary BROWN. No, you have never. You show me a statement. I never in my entire life could be accurately quoted by saying Republicans saying this or Republicans saying that. That is not true.

Now, what may happen is that when I make a statement, the newspaper may pick it up and put those descriptive terms in it.

Mr. STEARNS. Well, you know, I want to commend you for saying that the President's numbers last year will devastate the VA because that puts it in perspective.

Do you believe the VA's request is adequate under medical care and the construction and not medical administration? You propose \$448 million.

Now, this committee has proposed \$57 million more. so our committee has proposed more than your office has proposed. Do you believe the VA's request is adequate based upon us recommending more?

I think you have been highly critical of the congressional budgets and the VA health care, yet your proposed increase is little more than last year's conference report increase.

Secretary BROWN. Yes. Let me just respond to that by saying you only hear me scream when you are taking something away from me. If you want to give me something, I will take it.

Mr. STEARNS. Well, I just want to put on the record, Mr. Chairman, that this committee is proposing more than the VA is offering. So I think this committee has shown its integrity, its commitment to veterans even beyond what the Secretary has proposed. So I want to go on record on that.

And the second question I have is that in 1995 the VA closed 2,300 beds a year when Congress provided \$111 million more than the President requested for VA medical care. That is an equivalent of eight hospitals. Aren't these bed closings the result of the VA's decisions to duplicate what the private sector trend seems to be in

hospital management, better allocate your resources to primary and ambulatory care, and that they are not budget driven?

Because back in my congressional district and Corrine Brown's and others', we hear this hue and cry from veterans. Why are you shutting the hospital beds? Yet we are providing \$111 million more. So you can see what we as elected officials face.

So, you know, I think you just have to justify why you are cutting so many beds when we are allocating so much more money.

Secretary BROWN. Well, I am going to ask Dr. Kizer to respond to that, but the money that we have, as I mentioned to you, is directly related to the number of veterans that we can treat. Less money, less veterans that are being treated.

Now, we are moving very rapidly and have been for some time, catching up and have been accelerating under Dr. Kizer's leadership with the private sector and the world in putting more emphasis on outpatient rather than inpatient care, but that is all part of the process, and that is just one part of it.

So I am going to ask Dr. Kizer to give us the full response.

Dr. KIZER. The full response would probably take a couple of hours. So let me very briefly just comment on our direction.

Mr. STEARNS. Are my facts correct?

Dr. KIZER. Yes, and I will give you one more, too. When I took this job a little over a year ago I was asked to come in and re-engineer the system. That is what we are doing, and we, indeed, did close 2,300 beds last year, and in the first quarter of this year, we have closed another 2,070, and I expect by the end of the year that number will more than double.

We are fundamentally re-engineering and re-inventing the health care system so that it goes from a hospital based system to an ambulatory care based system that is rooted in primary care.

We have to change the way we think about the veterans' health care system, focus on health care, not hospitals, not beds. Those are merely tactics in how we provide health care.

It is kind of like the railroads. You know, when the railroads were confronted with changing technology back in the early part of this century, they were trying to decide whether they were in the railroad business or the transportation business, and they decided they were in the railroad business and subsequently went out of business.

Other companys, like Motorola, who was confronted with the same question, whether they were in the electronics business or the phonograph and radio business, decided they were in the electronics business and have done very well.

We are in the health care business. Hospitals, hospices, home care, clinics, those are all merely the tactics and the strategy by which we will provide health care. As we fundamentally re-invent and re-engineer the system, we have to get away from thinking about beds in hospitals as a critical end of health care. They are just merely one tool by which we will provide that health care.

Mr. STEARNS. Thank you, Mr. Chairman.

I am just a little concerned that the VA is getting away from hospital beds and hospitals.

The CHAIRMAN. Ms. Brown.

OPENING STATEMENT OF HON. CORRINE BROWN

Ms. BROWN. Thank you, Mr. Chairman.

Mr. Secretary, in our quest to pass a responsible budget, it would be wrong to do this by cutting back on health care for our veterans who have made this country what it is today, and I want to thank you from the bottom of my heart for your standing up for veterans.

You know, a lot of us talk a great talk, but when it comes to walking that walk, and I mean voting for a veterans' budget that really supports our veterans, we do not do it.

Would you explain the difference between what the Clinton administration proposed and what you actually have received this year with these 11 continuing resolutions?

And of course, I cannot speak without talking about the Brevard County hospital facility. Last year the President requested \$164 million for construction. The Congress, in its wisdom, appropriated \$25 million. This year the President requested \$42 million for the funding of this facility.

It is obvious that serving east central Florida veterans is a priority of the Clinton administration in regards to patient care. Could you please tell the committee the status of the project and why the Brevard County Hospital remains a priority? And also give me the status of the outpatient clinic in Orlando.

Secretary BROWN. Thank you, ma'am.

This hospital in Florida is very, very important to us because we identified 10 years ago because of the influx of veterans that are coming into that area that it needed that facility. We just opened the West Palm Beach Hospital, and we had anticipated about 600 outpatient visits a day. We already have 900, so that the demand is there. It is just pent up demand, and Florida has not received its fair share of resources.

So as a result, we are committed to building that hospital in Brevard County. Last year the President, as you pointed out, asked for a \$1 billion increase in discretionary funding, and we ended up with \$85 million. His request would fully fund the Brevard Hospital. It was knocked out totally.

But the President is committed to making sure that the veterans in Florida receive access to medical care, and that is one of the reasons why he replaced that project back in his 1997 budget.

And on the project in Orlando, we have moved on the outpatient clinic, and we have not done anything on the nursing home, have we? Where are we on the nursing home?

Mr. YARBOROUGH. The situation there at Orlando is that the Naval Training Center began closing out in late 1994 and finished their close-out, their demobilization in June of last year, and we have been adding staff there since the latter part of 1994.

So we have had full staff in the outpatient clinic operating since June of last year. It is almost a situation where it was going too well. We have over \$14 million in construction projects going there, some of which have been done. Mechanical and electrical systems have been improved, and the work that needs to be done on the old hospital, the naval hospital, to convert it for access for a nursing home, and so forth, is under contract.

As you probably know, the Mayor of Orlando has asked the Navy to withdraw their offer to transfer this without cost to the VA. So we are pending some solution on that.

Ms. BROWN. Thank you. No, I did not know that.

The CHAIRMAN. Mr. Kennedy.

STATEMENT OF HON. JOSEPH P. KENNEDY II

Mr. KENNEDY. Thank you very much, Mr. Chairman.

Mr. Chairman, I just want to review what I think some of the specifics are that have led us into the bind that I think the committee and, I think, the Secretary is in today and that Dr. Kizer is trying to find a way out of.

It seems to me that we are in a situation where in the last decade the VA has reduced the total number of hospital beds it operates, as I understand, by about 35 percent and has cut its medical staff by about 7,000 positions since 1993.

At the same time, the VA health care burden is heavy and growing. Since 1987, the numbers of people who use the VA health care system has increased by a full 12 percent. In addition, older veterans require more care, and that care is more expensive.

By the year 2000, the number of veterans who are 65 and older will increase by some 30 percent, and the number of veterans 85 and older will increase by 174 percent.

Decreasing funds and increasing veterans' needs obviously are a recipe for disaster. Now, it seems to me that what you have got here is a situation where the Congress is passing a balanced budget that has been accepted by both the President, in terms of the budget cuts, as well as congressional leadership, which means that when—Tim, you hold up the chart. I mean we can get into some partisanship battle as to whether or not that is the President's budget or whether that is the congressional budget, but overall what you see is a decreasing number of dollars in the discretionary account which this comes out of.

And as a result, the Secretary and Dr. Kizer and everybody that works in the VA are facing a situation where the cost structure is increasing substantially, and the dollars that we are providing them are decreasing substantially.

Mr. HUTCHINSON. Would the gentleman yield?

Mr. KENNEDY. Sure. If the Chairman would just let us have a brief colloquy.

The CHAIRMAN. Go ahead.

Mr. HUTCHINSON. My point, and I do not disagree with what you just said about declining dollars and increasing need as veterans age, but my point was can we really trust the President's budget if the Secretary has already assured us that it does not mean anything, that it is all going to be renegotiated, so do not believe any of that.

So what good is a 7-year budget if it does not mean anything?

Mr. KENNEDY. Reclaiming my time, as I understand, the Secretary's point was that the President, because of that very dilemma that you are referring to, has chosen to go on a year-by-year basis and to try to maximize the dollars that go into the VA. It is the Republican budget that shows this massive decline in spending over the out-years.

So what I think is going on here is the Secretary is merely trying to do his job of standing up and saying: look. I represent a bunch of veterans that under any of these plans is going to get absolutely hammered.

And the action that is taken by the Republicans to try and muzzle the Secretary, in fact, ends up hurting our Nation's veterans, and that is where I believe that it is very, very important to allow the Secretary to speak out clearly and strongly about the impact of these cuts and to make certain that his staff, including Dr. Kizer, are given every flexibility to come up with cost savings.

But at the end of the day, once cost savings are done, the fact is that I think anybody that looks at the numbers has to conclude that you cannot create simply through cost savings the dollar structures that are necessary in reductions to meet the dollars that we are providing.

And inevitably what you are talking about is reducing patient care or the number of patients that the VA is going to end up serving, and that is where I believe Secretary Brown, Dr. Kizer, and everybody else has not only an obligation, but a responsibility that we ought not to in any way get in the way of speaking out clearly and strongly as to the fact that our Nation's veterans are going to end up suffering as a result of these cuts that we sort of pass along here in the spirit of a balance budget, but never take the time to actually look at the direct impact that we are going to have on the lives of the individuals that are actually going to get screwed because of the way this budget is being handled.

Thank you very much, Mr. Chairman.

The CHAIRMAN. Mr. Secretary, do you care to respond?

Secretary BROWN. I agree with everything he said.

[Laughter.]

The CHAIRMAN. Mr. Schaeffer.

Mr. SCHAEFFER. Thank you, Mr. Chairman.

I would ask unanimous consent that my opening statement be submitted as part of the record.

The CHAIRMAN. Without objection, so ordered.

[The prepared statement of Congressman Schaeffer appears on p. 81.]

Mr. SCHAEFFER. And I just have one question, Secretary Brown. The vocational rehabilitation program I feel should be a centerpiece for the Veterans Benefit Administration, and by its nature, vocational rehab. requires a great deal of personal contact between the rehab. counselors and their clients. Yet the budget does not provide additional resources to keep the average case load from climbing.

How, may I ask, is the VA going to propose to reverse this trend?

Secretary BROWN. John, can you tell me?

Mr. VOGEL. Yes, I can give it a try.

Mr. Schaeffer, I quite agree with you that the linchpin of what we are about is taking care of service connected veterans, and rehabilitation is pivotal.

We are doing a significant amount of restructuring of our program to try to reduce the steps it takes to process. What our people have done over time, as often can happen in bureaucracies and can happen in the Congress as well, with good intentions you put procedures in place, and they become a burden in fact. We are now

trying to free up our vocation rehabilitation specialists and our counseling psychologists to spend their time in the rehabilitation effort, the goal of which is employment.

We have reduced the steps in the process from 32 down to 12, and we are using purchase cards to provide these veterans with the supplies and the equipment they need to get through vocation rehabilitation programs.

I am not going to tell you that we are there, but I think we are making significant progress under the leadership of the Vocational Rehabilitation Director and Larry Woodard, who is in the room with us.

We have not asked for more, but we believe this is a case in dealing with compensation and pension and GI Bill that we can, in fact, squeeze out some efficiencies and reduce the staff while we do it, and we have done that in the GI Bill, and we have done it in insurance, and we have done it in loan guarantee, and we have done it in compensation and pension, and we believe we will be able to do it in loan guarantee, as well.

Secretary BROWN. John, are we doing any contracting out?

Mr. VOGEL. The Secretary asked for contracting out. We are contracting out a lot of the counseling services, and we are working better with the Labor Department in getting jobs at the end.

Mr. SCHAEFFER. All right. Let me just ask, if I might, Mr. Chairman, real quickly one final question.

What about the numbers? I mean are we seeing a declining amount of numbers? You know, since the Persian Gulf War, we have not seen anything since the Vietnam War.

Mr. VOGEL. The number of individuals in the programs has been rather constant at about 55,000 or so. The good news is in the last 2 years we have increased the number of completed rehabilitations into the world of work in each year by 25 percent. We are very proud of that.

Mr. SCHAEFFER. That is good.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Mr. Barr and Mr. Bishop, we have been operating under the 3-minute rule. The Secretary has to leave at 11:30. You are recognized, Mr. Barr.

Mr. BARR. Thank you, Mr. Chairman.

Mr. Secretary, I think, if I am not mistaken in having looked through some of the material in advance of today's hearing, that the President's budget requests an additional 50 FTEs, full-time employees, at the Board of Veterans' Appeals, which I believe is an increase of 50 percent. How much can these pending claims be reduced, which I think total nearly 65,000 pending, by the new staffing level? Can we expect to see a substantial decrease in that?

Secretary BROWN. Yes, sir. Well, yes and no. Where we are at at the Board of Veterans' Appeals is really a real difficult problem. We have not reached the point yet where we are deciding more cases than we have coming in. We do not expect to reach that until 1997 or 1998. Where is Charlie?

Mr. CRAGIN. fiscal year 1997.

Secretary BROWN. Okay. We expect to turn that corner in fiscal year 1997, but with this additional FTE that we requested, and as

you pointed out, there are 50 of them, it would allow us to reduce our response time from 675 days in 1996 to 545 days.

Now, that may seem like, you are not doing veterans a big favor, and that is certainly too high, but we are working at it very, very hard to try to drive those numbers down. We have initiated a number of new initiatives to try to restructure the system to make it more efficient.

So we are still responding to the mandates of the court and are trying to respond in a way, and we have not gotten control of it, but I think we are moving in the right direction.

Mr. BARR. Well, I am not real great with math, but that only represents, I think, maybe a 10 or 15 percent reduction. I mean is that all we can expect in the first year?

Secretary BROWN. Yes.

Mr. BARR. With increasing the FTE that amount?

Secretary BROWN. Yes, and part of that, sir, is that this is a very highly specialized area. We are bringing in new lawyers that have to be trained, and so all of that is factored in.

One good statistic, and I do not recall the number of cases, Charlie, the number of cases that each individual produces has increased from what to what?

Mr. CRAGIN. We are projecting, Mr. Secretary, 14 cases per FTE to almost 17 cases per FTE over the course of time. I should point out, sir, that in the last year, fiscal year 1994, the Board decided 22,045. In fiscal year 1995 it decided 28,195 cases, an improvement of approximately 29 percent, and we are projecting 32,250 cases this year, approximately an 18 percent improvement, with a project for fiscal year 1997 of 41,200 cases. That is almost a doubling of the productivity since fiscal year 1994 and represents the year that we will, in fact, turn the corner and be disbursing as many decisions or more cases than we are taking in on our docket.

Secretary BROWN. It is tough. It is tough, and I am not happy with that, Mr. Barr, but I think we are doing the best that we can with the resources that we have and in terms of streamlining, but we are working on it.

Mr. BARR. Well, I appreciate that, and I know it is tough, and you cannot just look at it simplistically in terms of the numbers, but I would certainly hope that we could do a little bit better than that sort of reduction.

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Bishop, one second, please.

Would the gentleman who just gave us the last statistic, would you please submit that for the record? I do not believe the recorder was able to pick up your comments.

Mr. CRAGIN. I would be happy to.

The CHAIRMAN. Thank you. Mr. Bishop.

OPENING STATEMENT OF HON. SANFORD BISHOP

Mr. BISHOP. Thank you very much, Mr. Chairman.

Let me also welcome the Secretary and all of the veterans' service organizations that have come. I appreciate the difficulty that you are working under, that you are laboring under to try to be both cost effective to meet your budget obligations, but at the same

time try to deliver the best quality of service that the agency can for our Nation's veterans.

I have been questioned repeatedly by veterans as a result of the projected reductions in services in the reorganization, the loss of FTEs, if you will, where they already are saying that they do not get enough of the services. They do not have enough people to provide them services in a timely manner. They have backlogs. They have waits, and then to do the reorganization and do it with fewer people to actually provide those services. They are asking how is that going to be possible.

How is the VA going to really be able to work magic to make that happen? And of course, I believe very strongly in the desire on your part, but I really would like to hear from you frankly if that is going to be possible and still deliver the quality of service that the veterans deserve.

Secretary BROWN. Well, right today what you see here is we are in a situation where for budget reasons, we are being forced, and I think rightly so, in order to comply with the budget limitation to first capitalize on as many efficiencies as we can possibly identify, and I think we are doing that all across the board.

Now, that means in and of itself, because again of the budget, there are going to be some hurt. You take, for instance, we are losing 624 people out of Mr. Vogel's shop, and in the entire operation the only one that had a tremendous net gain was Mr. Cragin at the Board of Veterans' Appeals. We are losing 5,000 folks this year from health care. We are losing another 5,000 next year from health care. All of that is going to have an impact, but what we are trying to do is to manage that impact with these new initiatives that we have in place.

And I think that we are doing a great job. Dr. Kizer has a brilliant plan, and he is executing it wonderfully. I have nothing but admiration for him, and we are going to continue to be able to monitor it to make sure that we do not end up being counterproductive, that we do not lose sight of what we are here for, and that is, as you pointed out, to provide good, competent medical care, to deliver timely benefits, and to bury our veterans with dignity.

So it is going to be difficult, and you are going to hear a lot of complaints because out of this whole reorganizational structure missions will be redefined. You are probably going to end up maybe possibly closing some hospitals and so forth. So all of this is part of the overall grand plan, and there is a lot of hurt associated with it, but we are trying to manage it as opposed to allowing it to manage us.

Mr. BISHOP. Thank you.

The CHAIRMAN. Mr. Secretary, thank you very much. I know there will be additional questions. We did not get around the second time. So any member may submit questions for the record.

To Judge Nebeker and those other panels, it is going to be necessary that we recess for about 20 minutes, but it would be my intention to carry this right through the noon hour if we could. This is Friday, and I know everybody has a lot of things they want to do.

So we will recess the committee for about 20 minutes.

[Recess.]

The CHAIRMAN. The meeting will please come to order.

Our next witness is the Honorable Frank Q. Nebeker, Chief Judge of the U.S. Court of Veterans' Appeals.

Welcome, Judge Nebeker. The committee certainly appreciates your efforts on behalf of veterans, and we hope you will relay that message to your colleagues on the court.

Judge NEBEKER. Thank you, Mr. Chairman. I shall do so.

The CHAIRMAN. Sonny Montgomery.

Mr. MONTGOMERY. Judge I would like to also offer my welcome. I appreciate the job you have done for this new court. It seems to be functioning well, and I am sure you will explain it to us more today. Welcome.

Judge NEBEKER. I will be happy to try, sir. If you have any questions about our operation, do not hesitate to ask.

The CHAIRMAN. Judge, you can proceed as you wish.

STATEMENT OF HON. FRANK Q. NEBEKER, CHIEF JUDGE, U.S. COURT OF VETERANS' APPEALS; ACCOMPANIED BY ROBERT F. COMEAU, ESQ., JAMES L. CALDWELL, JR., SANDRA P. MONTROSE, ESQ., ANN B. OLSON

Judge NEBEKER. Thank you.

I know most folks say, "I wish to thank you for the opportunity to appear." I want to say it and mean it because we recognize, I recognize, that in the firmament of things our court is not as big an entity as the others that you consider, and so it is, indeed, helpful for us to be able to come here and to make a statement with respect to our needs and answer questions with respect to our function.

I learned a long time ago that when you appear before a body for relief, you identify what the relief is up front, and I have two points. One, we would ask for the support of this committee in our budget effort, and, two, your help and support in solving an ethical problem which arose during the current fiscal year for the first time with respect to a very successful and very helpful program. We all call it the Pro Bono Program.

This year we request \$8,795,000 in our budget. I would like to point out and to emphasize that the court's fiscal 1997 budget estimate is a 2.3 percent decrease in the funding level from the current fiscal year, and that figure, I think, becomes more significant when viewed in light of the history, the financial history, fiscal history of our court.

Since 1991, and that was the year the court was first fully staffed, through fiscal 1995, the average annual growth in actual dollars of our budget is 4 percent. That is true even when considered in light of the significant additional expense to the court of funding the Pro Bono Program, when it was a pilot project in 1992.

When the Pro Bono Program funding is factored out of the court's budget, the average rate of growth in that brief period of years is but 2.6 percent. Furthermore, there is no growth between fiscal 1995 and the current fiscal year.

The court's request for fiscal 1997 is consistent with the FTE reduction targets recommended for the Executive Branch by the Office of Management and Budget and does include funding in ac-

cordance with the cost-of-living percentages recommended for pay increases for the nonjudicial staff.

Our inflationary increases are also factored in along with an increased contribution to the court's retirement fund based on estimates submitted to us by the court's actuary.

Additionally, our fiscal 1997 request includes funds for previously deferred, but needed, very much needed, case management computer upgrades, which have been deferred. Even with these amounts factored in, the court's budget estimate is a net decrease of \$205,000 from the fiscal year 1996 tentative funding level.

Now, I am sure that you are aware that the court's fiscal 1997 budget request does not include a request for funds for the Pro Bono Program, the second point of relief that I wanted to talk with you about. I have addressed that matter at length in my prepared testimony and in a letter to you, Mr. Chairman, and to you, Mr. Montgomery, and I wish to take this opportunity on behalf of the court to emphasize one thing, and that is simply because the court is attempting to avoid an ethical conflict by having the program funded somewhere else does not mean that the court does not support the program in its functioning.

It is a marvelous program. It is a great aid not only to the veterans that it winds up having represented before our court. It is an aid to the court, and it is an aid to the entire veterans community in that they go a long way toward ensuring that the administration of veterans' benefits is consistent with the rule of law.

The difficulty which has arisen and which has brought about the court's decision not to request funding through our budget for the program is one that did not come into existence during the earlier period. Up until the 1996 budget, the court has acted principally as a conduit for funds appropriated to it to transfer to the Legal Services Corporation, which has been the secretariat and administrator of the program.

The uncertainties brought about by the fiscal year 1996 budget debate, a significant reduction in overall funding for the court, the multiple continuing resolutions, and a degree of uncertainty as to the final funding figure for this current fiscal year led me in December to advise the folks in the program that they could not expect the court to provide full funding.

In the debate that ensued, the court found itself placed in a position of being expected to fully fund the program at the expense of the court's own internal operation. That situation is quite different from what had existed when the court was merely acting as a conduit for separate funding, and it presents a significant dilemma to the court and has created a situation which threatens the very ability of the court to function as an independent judicial tribunal.

It also creates at the very least the appearance that the court and its judges may be acting in violation of the Code of Conduct for United States Judges, and I will remind the committee that that Code of Conduct is applicable to the judges of our court.

We have offered two possible solutions to the problem presented in the current funding situation and made potentially more difficult by provisions in what is known as S. 1131. It is not our position that the two solutions we offer are the only ones. Indeed, the pro-

gram itself has offered at least one other solution and perhaps more.

We are asking this committee and will ask the appropriations committees to assist us in arriving at a solution which allows the program to continue, but which removes any participation in the funding or management from the court and from the court's responsibility. Those two suggestions are contained in my letter I referenced earlier.

Thank you, Mr. Chairman.

[The prepared statement of Judge Nebeker, with attached letter, appears on p. 95.]

The CHAIRMAN. Thank you, Judge, and we share your concerns about the budget impact on the court's operation, and I know that there is going to be a subcommittee hearing on the pro bono issue, and we look forward to working this issue out with you.

Mr. Evans.

Mr. EVANS. Thank you, Mr. Chairman.

Judge, thank you for your work on the court and the other judges as well.

Can you briefly describe what kind of, as you might say leverage that we get with the Pro Bono Program? We do spend some federal dollars on it, but we get good quality representation. Could you elaborate a little bit about how the program works?

Judge NEBEKER. Well, I can elaborate on how the program works. I am not in a position to elaborate on its impact fiscally, except to say that I have heard last year—I assume they are accurate representations being made—that for the federal dollars spent, the return in terms of, if you will, dollars of lawyer time that has been devoted to the program at no cost to anyone so far exceeds the federal dollars spent that it is very, very significant.

The impact that the program has, let me tell you how it begins. When a notice of appeal is filed, we are about 80 percent pro se. That means the appellants do not have any representation before the court at all, and they are mystified as to this appellate system.

The Court sends to these appellants a list of about 500 attorneys who have indicated their availability to represent veterans, usually for a fee. If, after about a month, an appellant is still unrepresented, a notice goes out advising the appellant that there is the program available, and arrangements can be made if the appellant wants to have his case evaluated and perhaps have an attorney appointed. When the Pro Bono Program hears affirmatively that the veteran wants such to be done, the case is screened.

Now, these cases are screened for merit, and I learned some time ago when I went out to some of the law firms here in town and just asked them if they would take some of these cases that they are perfectly willing to take them, but they do not want to take a case that is frivolous. First of all, there is not a heck of a lot of training in one of those cases for their younger associates, and secondly, it is not a pleasant situation to have to explain to a client, even though it is a pro bono client, that your case is not worth much.

So in any event, to entice and encourage lawyers to take these cases, the Pro Bono Program screens them and then matches the lawyer with the client. At that point the lawyer is then in a posi-

tion to represent the appellant and to go over the record and file a brief.

The program also mentors these lawyers. There is a tremendous educational program that is also offered about two or three times a year, and believe it or not, we get senior partners from the big law firms in this city to come down and spend a day learning about veterans law so they can take these cases.

Mr. EVANS. The potential ethical problem involves the court operating and managing the fund which might look, and it is as much the appearance as much as the reality, of the court siding with one party.

Judge NEBEKER. Indeed, that is true.

Mr. EVANS. Okay. So that is an ethical problem that you feel the judges themselves face.

Judge NEBEKER. And separate and apart from the independence of the court problem, which, of course, is the subject of Cannon 1 of the code, the appearance of impartiality and independence are the subjects of Cannons 2 and 3, and indeed, there is the appearance of lack of independence and impartiality.

If the court must, out of its own operating funds, fund a program which brings a lawyer before it representing a client, then the client reasonably can say, "Well, gee, you don't like this whole thing because you had to take operating funds out of your own court in order to get me before you," and it is that appearance that I think we are duty bound to avoid.

Mr. EVANS. All right. One of the preliminary findings of the Veterans' Claims Adjudication Commission seems to blame judicial review for the staggering backlog of claims. Specifically, it concludes that the court, quote, "has adopted an adjudicative policy-making role that traditionally and appropriately is the responsibility of the Secretary," unquote.

Could you please comment on this specific finding of the commission?

Judge NEBEKER. I disagree with it. I disagree with it completely. The court's scope of review is quite limited. We adhere to it, and what we are finding is that there are prejudicial errors in the adjudication process that require the court in most instances to remand the cases back for re-adjudication and to do it properly.

We find the error is generally in the failure to apply a statute, which is policy, but not the court's policy, or a regulation, which is policy in many cases, but it is the policy of the department, not of the court. We see to it that these decisions are made according to the rule of law within the limited authority and scope of review that the court has.

To say that the court is substituting policy making for the policy makers in the legislative and executive branches of the government I believe does the court a disservice.

Mr. EVANS. Thank you, Judge.

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Fox, you are next.

Mr. FOX. Thank you, Mr. Chairman.

The CHAIRMAN. Yes, sir.

Mr. FOX. Judge Nebeker, with respect to funding of the Pro Bono Representation Program in fiscal year 1996, I note that the appro-

priations committee has permitted the court to provide up to \$678,000 for grants, and that your written testimony indicates that the court utilized only \$405,000 in fiscal year 1996 funds designated for the Pro Bono Program.

Could you please clarify for me what appears to be a discrepancy between what the appropriations committee has authorized to fund the program and the funding the court made available to it?

Judge NEBEKER. The short answer is that they had over \$200,000 of 2-year money that they had not spent, and so they are adequately funded, and I believe there is no exception to that by them. They are adequately funded for the current year with the \$405,000 contribution out of our operating funds. Had they not had that excess 2-year money left over from last year, then we would have been forced, I think, to have given the full amount.

But it seemed——

Mr. FOX. It will all be used then to take care of veterans?

Judge NEBEKER. Yes.

Mr. FOX. Okay. In your letter to Chairman Stump of March 21st of this year regarding the Pro Bono Program and S. 1131, a bill to permanently authorize the program, you offer two alternatives to fund the program through the court. The first would send the funds directly to the Legal Services Corporation, which now administers the program. The second alternative states that S. 1131 could be amended to authorize appropriations to include funds for the program through the VA.

Please respond to the concerns raised by David Isbell, of the Veterans' Consortium Pro Bono Program, that funding the program through the VA would present a conflict of interest because the agency providing counsel for the appellee in all cases before the court would be given a measure of control and oversight over a program providing representation to parties that are opponents in such cases.

Judge NEBEKER. There would be no more of a conflict than exists in the Department of Defense, which itself handles both the prosecution and the defense of cases under the Uniform Code of Military Justice. Of course there would be a conflict if you had the General Counsel's Office, which represents the Secretary before our court, also controlling the funds for the Pro Bono Program, but as in the Department of Defense, the matter can be walled off sufficiently that there is no conflict.

And I am at a loss to understand how Mr. Isbell failed to understand that.

Mr. FOX. Okay. Could you respond to the proposal of the Veterans' Pro Bono Consortium to amend S. 1131 to designate the Administrative Office of the U.S. Courts or another federal governmental entity as the recipient of funds to operate the Pro Bono Program?

Judge NEBEKER. Mr. Fox, I know Ralph Mecham, the Director of the office, very well. I cannot speak for him.

Mr. FOX. Right.

Judge NEBEKER. And, indeed, I have not talked to him about the prospects of having it sent over there. I can anticipate that there would be resistance. The court does not operate under his jurisdiction. It is totally independent, and the program is simply not a part

of the Article III courts and the Court of Federal Claims, which are the courts that the Administrative Office services.

Mr. Fox. Okay. Let me ask you this. Assuming we want to continue funding the Pro Bono Program to help our veterans and their cases, what funding stream should be used? Who should get those funds, in your opinion, assuming the Congress and the President wanted to move ahead with that expenditure?

Judge NEBEKER. I think we will have to stay with the status quo and just appropriate funds directly through the Legal Services Corporation. It is doing a very fine job of handling the program.

Mr. Fox. But what happens if the Congress zeros out the Legal Services' appropriation? Where do you go then?

Judge NEBEKER. Well, that is a problem. I do not have a ready answer.

Mr. Fox. I am just saying I have to be realistic with you because, under this current climate that could be a possibility, and I do not want to see veterans without relief just because Legal Services Corporation is not the entity to which they can go.

Judge NEBEKER. Well, given that I see no conflict with respect to having the VA do it, I would say the VA would be the next.

Mr. Fox. If you cannot do it through the Legal Services Corporation, have the VA do it through what office?

Judge NEBEKER. Well, that would be up to the Secretary. His General Counsel can advise him as to how to wall it off within the department so that there is not a conflict or an appearance of conflict, just as they have done it in the Defense Department.

Mr. Fox. Okay. If I may continue, and I appreciate your candor and patience, at the U.S. Court of Veterans Appeals' third judicial conference in October 1994, you expressed concern that there was a vast gap between the theory and practice of judicial review and it was that gap which appeared to be frustrating the original intent behind judicial review. You stated this was due largely to an adjudication error rate which was far too high at the regional office level.

In fact, the court remanded 48 percent of the cases to the regional offices due to the failure of the regional offices to follow proper procedures. How do you view the original intent behind judicial review, and in the time since the Third Judicial Conference has the court seen any improvement in meeting that intent?

Judge NEBEKER. Well, I have seen signs that there are some efforts at change, and I understand that the VA is undertaking a major re-engineering in its regions. I think that it is too soon even to speculate on the effect that these changes might bring about.

From my vantage point, I have not seen evidence of changes at this time. In the cases we have seen at the court, the old problems are still very evident. The draft report of the Veterans' Claims Adjudication Commission recommends increased coordination between the Veterans Health Administration and the Veterans Benefits Administration so that the adjudicators can get medical evidence regarding present disability or its connection or lack of connection to service.

But we still see far too many cases where BVA remands again and again for the development it has directed. There is still no di-

rect accountability of the regions to the BVA and a great variance among the regions in the responsiveness to directions on remand.

The BVA error rate continues to be high. I wrote to Mr. Melidosian in mid-December inviting him to come to the court and inspect our records, our dockets, which reveal that the error rate was still in excess of 60 percent, and I might add sometimes the error rate revolves around the request for an independent medical opinion, and it is specific as to what it wants. The answer is something else. It does not address the request, and that was one of the subjects that I addressed in my speech a year and a half ago.

Mr. FOX. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Mr. Fox.

Mr. Bishop.

Mr. BISHOP. Thank you very much, Mr. Chairman.

Judge, let me welcome you, and I want to commend you for your sensitivity to the appearance of impartiality and impropriety, and unlike Mr. Fox, I would wholeheartedly think that the Legal Services Corporation is a very, very good entity to provide representation as an independent agency that would avoid the appearance of a conflict of interest.

You analogize it to the DOD situation where, under the Uniform Code of Military Justice, the Department of Defense provides both the prosecutor and the defense counsel, and you indicate that it works well, and of course, that is something that has been done for many, many years. It is an accepted pattern of behavior for the Department of Defense in doing that.

However, there are many, many instances where the lack of impartiality is raised as an issue and is questioned, particularly by individuals who receive adverse decisions or who feel that they have not had the full, zealous efforts of their appointed counsel, whether the captain at the JAG Office is just not going to buck his authority because he wants to get his promotion, and he does not want to make too many waves, although he wants to get an acceptable ROP.

So I understand that, and I appreciate your sensitivity, and I hope that you will continue to be sensitive to that so that veterans, when they are engaged in appeal or when they are in a situation where that interest is adverse or is different, is in conflict with that of the agency itself, that they do not have to be placed in a situation where they have got to feel like the fox is guarding the henhouse, so to speak.

And I just want to share with you my appreciation for your sensitivity to that because that certainly works to the benefit of the veteran.

Judge NEBEKER. Thank you.

Mr. BISHOP. I also want to commend you for the efforts that you are making with the Pro Bono Program and the other requests for the FTEs to expedite this appeals process. There is one thing that my veterans tell me that is frustrating. It is the lag time that the appeal process has engendered. It seem to me that the quicker from the filing of the claim through the final adjudication, the quicker that process can be made to be, the more expeditious it can be, the better it will be for all concerned.

Better for members of Congress who hear the complaints; better for the department and the department's image; and certainly better for veterans, and I would urge you to continue your efforts to expedite that process.

With that, I do not have any questions, but I do want you to know that I appreciate your sensitivity to that, and I would hope that veterans would always have an independent advocate in whatever situation they find themselves in need of an advocate, and certainly in the adjudication of these appeals, I can think of no greater need than to have that independence there.

Mr. FOX. Would the gentleman yield for a moment?

Mr. BISHOP. I will be glad to yield, Mr. Fox.

Mr. FOX. I just wanted to make a point of clarification. I, like you, agree that the Legal Services Corporation has a viable role. I was just saying in this climate where some people were trying to zero it out, if that ever did occur, I just wanted to know the option, but I appreciate and I agree with your kind comments about the judge and his efforts for our veterans. So I just wanted that point of clarification.

Thank you.

Judge NEBEKER. Thank you.

Mr. FOX. I yield back.

The CHAIRMAN. Mr. Edwards.

Mr. EDWARDS. Thank you, Mr. Chairman.

Judge, thank you for your service, and I wanted to follow up on the issue touched on by Mr. Fox. Could you educate me briefly as to how the Legal Services Corporation program works in conjunction with the court? I just was not aware of how Legal Services impacted veterans' appeals cases before the court. Can you tell me how they interact?

Judge NEBEKER. Yes. When we made this proposal back in 1992 to use the funds that we had available and thought it was a good idea, we recognized the problems of the court having a direct hand in the operation of the program and then also to adjudicate the very claims that were before it. So we sought and found this entity, the Legal Services Corporation to act as independent secretariat, keeping the Pro Bono Program at arm's length from the court, to administer and audit the program, and so that is how we wound up being a conduit for funds, and once they are over there, they are the Legal Service Corporation's responsibility.

There were a lot of rules and regulations that LSC had that just simply would not work if this program was to be run by them, and so they were able to work out a way whereby it became possible for LSC to administer these funds, to audit the program itself and to make a report, and that, of course, is at some cost to the program because they take out of the grant funds, the funds that we convey, an overhead for this administering of the program.

I do not believe, and in fact, I am very confident they take no direct hand in the substantive matters that the program deals with. They just insure that the program is operating according to a memorandum of understanding which the court had with LSC when it first got this thing started.

Mr. EDWARDS. Legal Services Corporation does not provide direct legal representation for indigent veterans with cases before the Board?

Judge NEBEKER. No, sir. The lawyers primarily, although not exclusively, are volunteers from the District of Columbia Bar.

Mr. EDWARDS. Very good.

Judge NEBEKER. They take the cases without pay.

Mr. EDWARDS. Thank you very much.

Thank you, Mr. Chairman.

The CHAIRMAN. Is their role not one of training for the others?

Judge NEBEKER. It is the role of the Pro Bono Program but not the Legal Services Corporation. When this first got started, there was not a lawyer in this city who was not working for VA that knew anything about veterans' law. After all, they had been walled out of it for, lo, these many years, and so the first thing you had to do was set up a program that would give them the basics of the veteran's benefits jargon and how the VA operates.

I learned in the very first case where I asked for an amicus, the famous *Gardner* case, that a lawyer could learn just about everything about VA law to handle a case in a very short period of time, relatively speaking, but, boy, that is a lot of billable hours going into pro bono work if you have to teach yourself about veteran's law.

So this program compresses it into a day and then at least the lawyer is well enough equipped to ask the right questions of the right people as he is representing his client.

The CHAIRMAN. Thank you.

Any other comments?

[No response.]

The CHAIRMAN. Judge let me commend you for the very fine work you do, and thank you for taking the time to be with us today. I do have a couple of questions I would like to submit to you if you would submit them for the record, please.

Judge NEBEKER. I will be very happy to, sir.

The CHAIRMAN. Thank you so much.

Judge NEBEKER. And thank you.

The CHAIRMAN. Our third panel consists of representatives from the veterans' service organizations which compile the *Independent Budget*.

From AMVETS we have Bob Carbonneau; from the DAV, Rick Surratt; from PVA, Russ Mank; and from the VFW, Jim Magill.

Gentlemen, as you know, your entire statement will be inserted in the record. If you could help by trying to limit it to 5 minutes, we would appreciate it very much, and you may proceed in any way you see fit, whomever wants to start first.

Mr. MANK. I will start first.

The CHAIRMAN. All right. Thank you, Mr. Mank.

STATEMENT OF RUSSELL W. MANK, LEGISLATIVE DIRECTOR, PARALYZED VETERANS OF AMERICA

Mr. MANK. Thank you very much for inviting us to testify before the committee regarding the fiscal requirements of the Department of Veterans Affairs for fiscal year 1997.

On previous occasions the *Independent Budget* co-authors usually bring our recommended appropriations at this point. Unfortunately the *IB* is not completed. In the meantime, representing AMVETS and discussing the national cemetery system will be Robert Carbonneau; representing the Disabled American Veterans will be Rick Surratt, discussing veterans' benefits programs; and Jim Magill from VFW, discussing the construction program. I am Russell Mank and will be discussing medical care.

The committee's total budget recommendation is considerably more than the administration's request, and we hope that the rest of your colleagues will be as thoughtful in responding to veterans' needs in the near term. Your proposal calls for \$61 million over the administration's budget request, and we view that increase very positively.

We believe this increase may forestall some of the VA staffing cuts planned for fiscal year 1997 and allow the VA medical care system to adjust more adequately to the massive restructuring it is undertaking. The preliminary *Independent Budget's* figures will probably recommend an additional \$54 million just to meet current services.

The *Independent Budget* projects that even the House Veterans' Affairs Committee's funding will necessitate staffing or other programmatic cuts in the medical care system, but we applaud the committee's recommending an additional \$10 million for research. This is needed by the research community in the Department of Veterans Affairs.

Eligibility reform could play a significant role in the budget process. You, Mr. Chairman, have introduced H.R. 3118, a bill to change eligibility criteria. Last November this group supported your initiative as a starting endeavor toward moving toward eligibility reform, but I would also be remiss if I did not say that we were certainly pleased that Congressman Montgomery has introduced H.R. 3119 by request, and we certainly are going to endorse that bill wholeheartedly. We believe it brings to the Department of Veterans Affairs the concept of putting medical requirements first in treating veterans.

That concludes my portion of the statement, and I would turn it over to Mr. Rick Surratt.

[The prepared statement of Mr. Mank appears on p. 105.]

STATEMENT OF RICK SURRATT, ASSISTANT NATIONAL LEGISLATIVE DIRECTOR, DISABLED AMERICAN VETERANS

Mr. SURRATT. Mr. Chairman, Mr. Edwards, good afternoon.

I am Rick Surratt with the Disabled American Veterans.

The DAV's portions of the *Independent Budget* are benefits and general operating expenses. My remarks today will focus on those two areas of the budget.

As an organization of more than one million service connected disabled veterans, DAV has a special interest in the effectiveness of the benefits programs and their delivery. The administration's budget would maintain the benefits programs intact and provide a cost-of-living adjustment for compensation, while proposing several measures to achieve savings.

The DAV appreciates the administration's support for veterans. However, we oppose making these cost saving measures permanent as the administration suggests, especially the provision to round down the compensation COLAs.

If additional savings are needed in the future, these provisions can be further extended at that time, and we do not see any need to make them permanent now.

We are also concerned about the proposals to make more deep cuts in staffing during fiscal year 1997, over 600 in the Veterans Benefits Administration and over 5,000 in the Veterans Health Administration. Even though restructuring may permit some reductions without diminishing quality and timeliness of benefits, current demands already strain VA's resources and the effects of restructuring are at this point highly speculative.

We support continued computer modernization, and we strongly support increased staffing for the Board of Veterans' Appeals. The *Independent Budget* recommends some improvements in the benefit programs to make them more equitable. I would invite the committee's attention to our written statement where these several recommendations are listed. I will not go through those here.

One of our greatest concerns continues to be persisting problems in claims adjudication, one that we have been confronted with over the last few years. While statistics show improvement in timeliness at VA regional offices, they do not show improvements in quality. It is unacceptably high error rates in the regional offices' decisions that leads to the large backlogs and protracted delays in the appeals process.

The percentage of cases reversed by BVA has grown steadily from 13.4 percent in 1990 to 19.8 percent in 1995, and now up to 22 percent in the first quarter of 1996. Remand rates have skyrocketed, from 22 percent in 1990 to 47.6 percent in fiscal year 1995. More than two thirds of the cases being decided by BVA contain mistakes requiring reversal or remand.

Unfortunately, the first remand does not always correct the deficiency. The percentage of cases that were remanded more than once grew from 2 percent in 1991 to 13 percent in fiscal year 1995.

In addition to the new appeals it is receiving for the first time, BVA is receiving about three quarters of these remanded cases back from the regional offices. This combination of old and new cases exceeds the Board's capacity.

The *Independent Budget*, therefore, recommends steps to improve quality at the regional office level, such as improved training and accountability. We believe these are some of the most important recommendations we have made this year. These recommendations are also summarized in our written statement.

We hope to have the *Independent budget* printed and available to you in the near future. We hope that you will give careful attention to our analysis of these problems and our recommendations for improvements in claims adjudication.

Of course, I would be happy to answer any questions you may have here today about this or any other areas of our testimony.

Mr. Chairman, I would like to thank you and the other members of the committee for your interest in a budget that will be fair for

veterans and for your continuing support, and that concludes my testimony, Mr. Chairman.

[The prepared statement of Mr. Surratt appears on p. 121.]

The CHAIRMAN. Thank you, Rick.

Mr. Magill will be next.

**STATEMENT OF JAMES N. MAGILL, DIRECTOR, NATIONAL
LEGISLATIVE SERVICE, VETERANS OF FOREIGN WARS**

Mr. MAGILL. Thank you.

The Veterans of Foreign Wars' portion is the construction aspect, and this is what I will address in my allotted time.

The IB is well aware that the formation of VA's vision is coming at a time when Congress may not appropriate new dollars for major construction and in all likelihood will minimize appropriations for the minor construction. VA officials, particularly the network directors, must have maximum flexibility to use construction funds to insure veterans optimal access to the full range of care.

VA must shift its construction program emphasis from the bricks and mortar over to expanding primary care access. They must make facilities more modern and attractive, increase long-term care capacity. The need for enhanced outpatient and extended care far outweighs the need for new hospital beds.

Of particular concern is the minor construction cap of \$3 million. Many renovation projects are threatened because they exceed this amount. We recommend that they raise the cap to at least keep pace with inflation, and this will enable the network directors to adjust to a change in the new health care environment.

Also prompt expansion of the ambulatory care program is crucial if VA is to be an effective care provider. It must move in the direction of more outpatient instead of their current mode, which is much more costly, inpatient.

We also believe that the current 357 outpatient clinics cannot insure that all veterans will have access to care. We would recommend that the VA must open up more clinics in areas convenient to veterans, and also they should place some primary care clinics within the vet center network.

Leasing authority is essential of VHA is to reconfigure its delivery system. With respect to the aging veteran population, this merits rapid expansion of VA long-term care.

I will now very briefly give our funding recommendations, but, again, these are preliminary and, as Russ said, in a couple of weeks you will have the actual figures.

With respect to major construction, we are going to be recommending approximately \$469 million. This includes funds for replacement and modernization, and again, leasing is preferable to new construction. With minor construction we are going to be recommending approximately \$269 million. Most of this is to be used to convert unused and unneeded hospital beds over to nursing home care.

The parking garage revolving fund, approximately \$1.5 million. Of course, if VA is to be competitive, veterans and visitors must have places to park.

The grants for the construction of State extended care, approximately \$180 million. We believe the State Home Program greatly

enhances VA. The total construction is going to be approximately \$924 million.

This concludes my statement.

[The prepared statement of Mr. Magill appears on p. 129.]

The CHAIRMAN. Thank you. Mr. Carbonneau.

**STATEMENT OF ROBERT P. CARBONNEAU, NATIONAL
LEGISLATIVE DIRECTOR, AMVETS**

Mr. CARBONNEAU. Mr. Chairman, Mr. Edwards, AMVETS is grateful to you and to the committee for allowing us the opportunity to testify today.

We view the *Independent Budget* as a true picture of the realistic funding required by the VA. AMVETS' testimony primarily addresses the national cemetery system.

The national cemetery system is not attracting the funding necessary to assure its long-term performance. Many of the long-term projects that are necessary to serve veterans and their families may not be completed in time to meet the demand.

The system must continue to expand to meet the needs of America's veterans. Currently NCS has five new cemeteries in the planning stages, in Albany, Chicago, Cleveland, Dallas, and Seattle. Lands have been obtained for these sites, but only Seattle has been funded. It is estimated that the construction cost would be as follows: Dallas, 16.2; Chicago, 18.4; Albany, 14.1; and Cleveland, 15.3 million. The President's budget does not fund Albany nor Cleveland.

In the effort to conserve time, I am going to cut to the chase here. The implications are clear. Congress and the administration must properly fund NCS' maintenance and repair, equipment and FTE accounts. We expect service levels to remain high, and that cannot be achieved without resources. The cemetery system cannot be allowed to deteriorate.

In summary, our recommendations are: add at least 20 more FTE; provide at least \$2.2 million in additional funds to reduce the equipment backlog; add \$500,000 to complete the automated memorial application system. We again ask the VA to begin a feasibility study to promote a second national cemetery to ease the demand for space at Arlington.

We should aggressively pursue an open cemetery in each State. VA should actively pursue expansion of existing national cemeteries wherever possible. VA should recommit itself to a policy of an open national cemetery within 75 miles of 75 percent of America's veterans.

VA should seek relief from historic preservation requirements at NCS facilities wherever appropriate.

The cost, because my figures are set in stone, Mr. Chairman—just kidding—we ask for \$82 million in appropriations for fiscal year 1997, and, Mr. Chairman, this concludes my statement.

[The prepared statement of Mr. Carbonneau appears on p. 136.]

The CHAIRMAN. Thank you.

Mr. MANK. Mr. Chairman, the *Independent Budget* panel appreciates the time that you have devoted to this budget preparation, and we certainly thank you for holding this hearing.

The CHAIRMAN. We thank you for summarizing your statements.

Mr. Edwards.

Mr. EDWARDS. Thank you, Mr. Chairman.

Thank you all for being here and for what you do on behalf of veterans.

I would like my primary focus and my comments and questions to focus on eligibility reform. However, I do want to ask every veteran service organization coming before this committee whether your organization supports or opposes the language put in the omnibus appropriations bill by the appropriations committee, not by this committee, that basically micro manages and requires furloughs of people in the Secretary's office.

Could you give me a brief answer?

Mr. SURRATT. The DAV opposes that, and I think we are on record as opposing that.

Mr. EDWARDS. Thank you.

Mr. MAGILL. The Veterans of Foreign Wars is adamantly opposed to it.

Mr. MANK. PVA is also opposed to it. We would like the House to recede to the Senate.

Mr. CARBONNEAU. Ditto. It misses the target.

Mr. EDWARDS. Okay. Thank you very much.

On eligibility reform, in meeting with veterans back home, and meeting with State Commander there recently the focus of discussion that some members are hearing, myself included, is for members to sign on to the Simpson bill, which Mr. Montgomery has introduced by request on eligibility reform. Clearly that is what we should shoot for. That is where we would like to be.

I have to believe that none of us in this room believes, frankly, there is even close to an even chance that that would become law with only 7 months left in this particular session of Congress, considering that that bill has to be jointly referred to several different committees.

Mr. Stump has worked very conscientiously to try to push a more limited eligibility reform bill that would not have to be referred to quite as many committees and I would hope would have a better chance of passing. Mr. Hutchinson and I have been meeting to try to find a way we can be of help to the chairman on that.

My question to you is: do you see that more limited bill as being a significant improvement over present eligibility laws and rules? And if so, are your organizations, while I understand your ultimate goal would be to pass the Simpson bill, are your organizations going to ask your members to talk to members of Congress about helping Mr. Stump and Mr. Hutchinson and myself to try to at least pass something this year that can help veterans?

And my editorial comment is that it seems to me in this process, and you all know this system better than anybody, the easiest thing to do in this system is to sign on and co-sponsor a bill that you really do not think has much of a chance of passing. You can go back home and make your speeches at the organizations, and they give you a standing ovation, and you do not have any intention of really rolling up your sleeves and getting into the dirt and doing the hard work to actually make a difference in veterans' lives.

Can you tell me your view about the more limited approach that I think has a far better chance of passing this year? Can we work together in areas of improvement? We can work together on a bipartisan basis and help Mr. Stump and Mr. Hutchinson try to get something on the books this year, and then next year if we can go ten steps farther, we will join hands and do that.

If each of you could respond to that, I would appreciate it.

Mr. MANK. Congressman Edwards, H.R. 3118, when it was proposed, was a good starting point, but as I sit here today I would be optimistic that we could still bring in that third party payer, bring in those catastrophically disabled individuals, an all-encompassing thing.

I think it is too early for me to answer your question directly.

Mr. EDWARDS. And let me, if I could, interject with the Chairman's approval.

The CHAIRMAN. Continue on.

Mr. EDWARDS. Please understand I have no criticism of all of our veterans' service organizations wanting to push the Simpson bill and H.R. 3119, and I want to be clear. I do not want anyone going away thinking I am being critical of that. I think by pushing that you help encourage Congress to focus on eligibility reform.

But at some point, as people who all care about actually making a difference in the lives of our daughters, our sons, and in this case our veterans, we have got to decide with 7 months left in this session what we have the best chance of getting passed. My fear is that if the veterans' grassroots focus is solely on the Simpson bill and no pressure is applied on all of us to try to work together to help Mr. Stump in passage of his bill, even if we modify it, then what is going to happen is it is going to let a lot of members off the hook. They will say, "Sure, I will sign the Simpson bill."

And so my question is not would you backtrack from your commitment to the Simpson bill. I would not ask you to do that. I think it would be inappropriate to ask you to do that, but will there be some effort from our service organizations to really not let the pressure off on getting something passed this year? Or do you have the position that we are better off passing nothing and waiting until next year?

Mr. MANK. I think we need to work very closely together to get something moving.

Mr. EDWARDS. Okay.

Mr. MAGILL. If I could just comment from the Veterans of Foreign Wars' perspective, as Russ said, this language came out of the *Independent Budget*, and again, this is based on what we feel VA has got to do to be competitive.

Mr. EDWARDS. Right.

Mr. MAGILL. And we, being practical, we all know that a lot of times it takes a little while. The long haul is sometimes the name of the game.

Mr. EDWARDS. Right.

Mr. MAGILL. We are committed, Congressman, to getting some form of eligibility reform started this Congress. So, therefore, again, while we are the authors of H.R. 3119 per se, we are going to work on that, but at the same time, if we see that that is not going to happen and there is another bill, we certainly want to get

something out of this Congress, and we would be very willing to work with you on that.

Mr. EDWARDS. Okay. Rick?

Mr. SURRATT. I am not the expert on health care, but I could say that certainly we would shoot for the plan set forth in the *Independent Budget* and the Simpson bill, and if at some point in time it became apparent that that is not a reality, we will accept incremental change if we have to do it that way. I think we still have our sights set on the bill that we have because we believe that these parts are necessary to work together to solve the problems, but certainly I do not think we would ever be in the position of rejecting half a loaf.

Mr. CARBONNEAU. The AMVETS feels the same way.

Mr. EDWARDS. Mr. Chairman, if you have questions, I will defer to you and then I will follow up.

The CHAIRMAN. Go ahead and complete your questions. That is fine, and then I will.

Mr. EDWARDS. I appreciate your comments. One of the things I have heard you say is that at some point we will make a determination whether, you know, H.R. 3119 will pass, and if we feel it will not, then we will maybe push harder on the more limited eligibility reform.

I guess my point is that I am fearful that with just 50 or 60 legislative days left in this session if members of Congress do not start getting grassroots pressure through your leadership to do something and do it this year, do not just co-sponsor another bill which is what we would really like, but if there is not grassroots pressure to really get eligibility reform through this year, I think we may end up empty handed, and I think time is already very, very short.

Of course, as you know, the constraint that Mr. Stump and all of us are working under on this committee is what the Budget Committee is doing. Now, I would be thrilled if you could help get the Budget Committee to appropriate billions of extra dollars for a broad ranging eligibility reform bill. Right now my question is whether we are even going to be able to get the more limited bill passed because I understand CBO, I think very unfairly, has put a \$3.2 billion price tag on that.

So I guess to follow up to your responses I would just say I think we are at the 11th hour. I may be wrong, and I would love to work together on a bipartisan basis on this, but I think we are at the 11th hour, and what I am hearing back home from my veterans is: will you co-sponsor H.R. 3119?

And what I wish I would hear from my folks back home is: Congressman, would you co-sponsor H.R. 3119, and by the way, tomorrow when you go back to Washington, would you work to get some eligibility reform passed this year and report back to me next week when you come back to Texas as to whether you are making progress on that?

But I look forward to all of our working together, but I think, Mr. Chairman, you would have a much better perspective of this process and all of the roadblocks of the Budget Committee that lie ahead, but I just think we may be at the 11th hour and 58th

minute right now with only 50 or 60 legislative days left, and I would hate for us to end up empty handed.

My commitment is just to work with you, Mr. Stump, and Mr. Hutchinson in every good faith way I can to at least make some progress this year, and then let's keep pushing for what we really want to accomplish.

The CHAIRMAN. I think the gentleman makes a good point, and believe me, I am going to do all I can, and I appreciate all of your work, Chet, to get all we can in eligibility reform. That is our number one priority of this committee, and we are not going to give up until we get something this year, I hope, at least.

Mr. EDWARDS. Thank you. Thank you, Mr. Chairman.

Thank all of you for your responses to my question.

The CHAIRMAN. Thank you very much.

I appreciate your comments about eligibility reform. I appreciate your support about the outpatient clinics, and we have already started in that direction. If you look at the construction budget that we put out, to get away from hospital beds and go to outpatient clinics we could save a tremendous amount of money. There may be rare instances where in some areas of the Sun Belt we may have to go back to beds, but right now we need that outpatient clinic, and we can serve veterans better from that standpoint, I think.

I want to thank you for all the work you do on the *Independent Budget*, and we look forward to receiving it. I know it may appear to you at times that we ignore that, but I assure you that is not the case. The appropriators may, but we do not, and we are going to do all we can to help you, and we really appreciate the work you do. It is a big asset to us, and I know it is a lot of work on your part.

So if there are any other comments or if not, thank you very much, gentlemen, for appearing this morning.

Mr. MANK. Thank you, Mr. Chairman.

Mr. MAGILL. Thank you, Mr. Chairman.

Mr. CARBONNEAU. Thank you, Mr. Chairman.

Mr. SURRATT. Thank you, Mr. Chairman.

The CHAIRMAN. One more panel to go if they are still here: John Vitikacs from the American Legion and Bill Warfield from Vietnam Veterans of America.

While you are coming up, let me just remind you your entire statement will be printed in the record, and of course, if you could summarize we would all appreciate it, and I am sure you are willing to do that also, but we look forward to your testimony.

**STATEMENT OF JOHN R. VITIKACS, ASSISTANT DIRECTOR,
VETERANS AFFAIRS AND REHABILITATION COMMISSION,
THE AMERICAN LEGION**

Mr. VITIKACS. Thank you, Mr. Chairman. Thank you for continuing this hearing into the early afternoon.

Accompanying me today is Mr. Phil Wilkerson, who is Deputy Director of the VA&R Commission for the American Legion.

The American Legion appreciates the opportunity to testify today, Mr. Chairman. As the Congress looks to restructure the Federal Government and balance the budget, the needs of veterans

and their families must receive the time, attention, and funding they deserve. Many programs and services in VA are being damaged by the current impasse in federal budget negotiations.

Although VA facilities are adopting more efficient clinical and administrative practices, many VA hospitals are closing beds and programs and furloughing employees due to being unable to adequately plan for their fiscal year 1996 budget.

The \$448 million increase in the fiscal year 1996 medical care appropriation as proposed by the President is not sufficient to replace the current shortfall and also allow for progressive improvements. The American Legion is concerned that the President's 7-year balanced budget plan proposes to reduce VA medical care spending from a level of \$17 billion in fiscal year 1997 to \$13 billion if fiscal year 2000, while increasing the level back to \$17 billion by the year 2002.

The same scenario is proposed for general operating expenses and cemetery funding. We do not believe VA could continue to provide high quality services at such drastically lower funding levels. We do not support the proposal as set forth and believe a further discussion of the budget plan is required. Mr. Chairman, a realistic plan based on reasonable assumptions is necessary.

The American Legion supports an adequate budget for VA's distinguished medical and prosthetic research program. This program's funding has been static for many years. We commend Dr. Ken Kizer for initiating an in-depth review of the medical research program, and we look forward to the results of that review.

We recommend that this committee hold a hearing on the VA medical and prosthetic research program once the VA Research Realignment Advisory Committee completes its current review, which is now scheduled to be finished in the month of May.

We support the administration's national cemetery budget proposal for FY 1997. The NCS received no increase in its operating budget for the current fiscal year, and the Nation's national cemeteries must continue providing proper and dignified service.

Mr. Chairman, the American Legion is still of the opinion that the proposed medical centers at Travis Air Force Base, California and in east central Florida are required. We are not aware of any credible analysis which disputes VA's contention that veterans in the two proposed catchment areas are underserved.

We support the President's entire fiscal year 1997 construction budget request.

And lastly, Mr. Chairman, the American Legion has some very important concerns regarding the VBA field restructuring proposal. The proposal should be viewed with the same degree of oversight as VHA's recent VISN reorganization. Clearly the proposal is inconsistent with the intent of Section 510, title 38, United States Code. The American Legion strongly supports congressional oversight and budget hearings on this important matter.

Mr. Chairman, that concludes my statement.

[The prepared statement of Mr. Vitikacs appears on p. 141.]

The CHAIRMAN. Thank you. Mr. Warfield.

**STATEMENT OF WILLIAM L. WARFIELD, DEPUTY DIRECTOR OF
GOVERNMENT RELATIONS, VIETNAM VETERANS OF AMERICA;
ACCOMPANIED BY KELLI R. WILLARD WEST, DIRECTOR
OF GOVERNMENT RELATIONS**

Mr. WARFIELD. Yes, Mr. Chairman and Mr. Edwards. Thank you very much for giving Vietnam Veterans of America this opportunity and having the patience and the concern. I am very proud to be here on behalf of VVA to present some of our views. I will summarize my statement.

As you know, VVA submitted our 1996 legislative priorities to the Veterans' Affairs Committees earlier this week. Our National President, Jim Brazee presented those views. So I will not go over those in detail, but will focus my comments on the budget.

With the scarcity of federal dollars and the push to balance the federal budget, we believe it is no longer realistic, nor appropriate to convey to you expectations and recommendations for ever more spending. Our goals must be to achieve budgetary savings and make priority and essential veterans programs work better, and I am sure you share those goals with us.

Therefore, VVA does not recommend any increased funding overall, but we will offer some program and management reform suggestions and recommendations on spending targets which will assure that limited resources for important veterans' programs are met.

We reiterate a deeply held principle that veterans' benefits are earned benefits, and they are not entitlements, and thus, our Nations' commitment must be budgeted accordingly.

Most veterans never use the federal government programs aimed at addressing their unique needs. In other words, VVA recommends prioritizing veterans' program needs in a way which improves efficiency, performance results, and eliminates obsolete programs and spending which is not cost effective. Service-connected injuries and illnesses are clearly the responsibility of the Federal Government.

Certainly program changes should be budget neutral or produce innovative budget savings. In looking at the big picture, the macro perspective for the fiscal year 1997 budget, the fiscal year 1997 budget proposal that the President submitted calls for \$1.6 trillion in new budgetary spending. The amount of taxes that will be paid to support that is estimated to be only \$1.4 trillion for 1997. That leaves a deficit of \$148 billion. Just paying for the interest on our \$5 trillion debt alone will eat up over \$239 billion in mandatory program payments or spending that could be used for what we need most here.

The real problem in controlling America's federal budget is the growth in mandatory or entitlement spending programs. That growth is estimated to be \$1.047 trillion in 1996, and it will grow another \$100 billion to \$1.1 trillion in the 1997 budget cycle.

Mandatory programs grow by themselves. They are not subject by law to reductions. Most, such as Social Security, Medicare, and Medicaid, automatically increase by being tied to annual cost-of-living, or COLA, increase adjustments. Congress and the President have not yet found the courage to deal with this crisis, and I regret to have to say that, but I feel I must fix accountability. So far only

cosmetic fine tuning has been applied to the discretionary spending levels which now represent less than one third of the total. So Congress can only control about \$548 billion of our total Budget today.

Some of the growth in the programs, if you read the budget in its fine details, which your excellent staff will do, I am sure, will show that Medicaid over the next 5 years will actually need an additional \$869 billion just to stay afloat; Medicare, \$1.6 trillion. Federal retirement programs will have to come up with another \$326 billion. Food and nutrition, such as food stamps, are classified as mandatory spending as well, will need \$280 billion, and then the big granddaddy of them all is really the Social Security payments will have to come up with \$2.8 trillion.

Net interest payments are very interesting. By the year 2002, Congress will have to find \$1.6 trillion.

So our position here is that if it is not stopped, no nation can continue very long with this kind of a morass and survive, and I would really like to indicate a few quick concerns on some elements in the budget as my time is starting to run out.

Our main suggestion is, in looking at the budget, and we agree very strongly with most of your recommendations, and I will submit some specifics, but what I would like to bring to your attention is an item that is not a new item, and with my experience on the appropriations subcommittee staff for years, is trying to deal with the VA, HUD, independent agency subcommittee with 21 different, conflicting programs that it has to juggle each year to try to find the money. That would be HUD, EPA, NASA, and the like. We realize it would be a hard procedural step perhaps politically and otherwise, but we think the time has come to consolidate the veterans' programs and formulate as part of the contract, as far as we are concerned, formulate a single subcommittee that could deal with veterans' programs and transfer the other programs out and still maintain only 13 subcommittees because the Military Construction Subcommittee is dwindling and could be merged with the Defense Subcommittee.

We think that it is a small step, but it would help protect and assure allocations of discretionary resources.

And with that I will conclude my statement, and I would be delighted to hear some questions.

Thank you, Mr. Chairman.

[The prepared statement of Mr. Warfield appears on p. 149.]

The CHAIRMAN. Thank you, Mr. Warfield. Did you get a chance to finish? We do not want to cut you off there. You have waited all of this time. If you have additional comments you want to make, feel free to do so.

Mr. WARFIELD. Thank you, sir. No, I realize it is Friday afternoon.

The CHAIRMAN. All right. Mr. Edwards.

Mr. EDWARDS. Thank you, Mr. Chairman, and thank you all also for your service to our Nation's veterans.

I will shorten it this time because you were here when I asked the previous questions, but I would like to ask you the same thing as the previous witnesses that I had requested of them.

The first is: does your respective organization have a position pro or con on the appropriations language in the omnibus appropria-

tions bill that would basically micro manage and limit the funding within the Secretary of Veterans Affairs Office?

Mr. VITIKACS. The American Legion has no position on that.

Mr. WARFIELD. Mr. Edwards.

Mr. EDWARDS. Yes.

Mr. WARFIELD. We do have a strong position on that, as you know. It does adversely affect veterans because it is a meat ax approach, and by cutting a general category account, it is discretionary spending, all of it in that program. It would curtail funding for all the Minority Veterans' Advisory Committee, for instance, and the Women's Veterans' Advisory Committee to probably cease to exist. And we have sent a pretty strongly worded letter to all House and Senate Appropriations Committee members that such reductions should be a targeted approach, and we really oppose it.

We agree with your position, and I would like to defer to my good colleague, our Director of Government Relations for VVA Kelli R. Willard West, if she has some comments on that, as well.

Mr. EDWARDS. Thank you.

Ms. WEST. Just to add to what Mr. Warfield said, the primary concern we had with the language as it was proposed is the programmatic impact, and that directly would negatively affect the Centers for Women and Minority Veterans, which this committee established in the last Congress. We strongly advocated for setting up those offices to conduct outreach and oversight programs addressing those specific needs, and as Mr. Warfield said, the language as it was proposed would negatively impact the ability of those offices to perform their responsibilities.

Mr. EDWARDS. All right, and it is my understanding that overall it does not save any funding. It does not lower the amount of funding going to the VA. It just was focused at the Secretary's Office.

Mr. WARFIELD. That is correct.

Mr. EDWARDS. Well, I hope this can be corrected in the conference committee with support on a bipartisan basis of the House and the Senate.

I was disappointed. I went to Mr. Solomon, the chairman of the Rules Committee, and specifically requested an amendment, an up or down amendment just to be offered on the floor, and I was denied that opportunity, and I am sorry. I think members on both sides of the aisle should have been given an opportunity on a free standing amendment to vote yea or nay on that.

As it turns out, we did put that in a motion to recommit, but in fairness to my Republican colleagues who care deeply about veterans, motions to recommit are generally seen as a party line vote, and so we tend to toe the party line more on those, despite the content of a measure.

So my hope is that we can put the past behind us and work together in the conference committee to take what I think is somewhat restrictive and unfair language in there. It does not hurt the Secretary. It ends up hurting the men and women who have served their country.

Could I also ask your respective organizations' views on the issue of eligibility reform? The fact is that we know what our ultimate goal is, but we also know we have very limited time left in this ses-

sion, and the more committees a bill has to be referred to, the more difficult it is going to be to pass anything.

The measure that Mr. Stump has put together is going to have a difficult enough time passing as it is with budget constraints being what they are. Do you feel that the bill that Mr. Stump has put together and I have signed on to, along with Mr. Hutchinson, is it a significant improvement in eligibility reform? Would you rather see that passed than nothing at all this year, even though all of us might commit to trying to go much, much farther if we can?

And do you have any specific plans to try to motivate your grass-roots membership to talk to members about the need at this 11th hour to do something this year?

Mr. VITIKACS. Mr. Edwards, your comment that we all agree on what the goal is, I believe that the goal here is to enhance equity of access to care in the VA, to increase efficiencies of care from a fiscal perspective. The American Legion has a proposal that has not been introduced yet. It does not have an H.R. or an S. number on it. It is called the Veterans' Health Care Security Plan.

Our proposal goes beyond any of the other proposals that we have seen thus far on eligibility reform. The bedrock of our proposal is to enhance access to care, to create efficiencies for the care being provided, and most important in our view is to introduce new revenue sources, new revenue streams into the VA.

One concern that I would have in relation to your objective of passing limited reform this year, now, we would certainly support reform that would basically codify what VA is already doing in the field, and that is providing primary care on an ambulatory basis and moving away from an inpatient, fragmented health care system, an inpatient based, fragmented system.

So if we want to codify what they are already doing, that would be the most limited of reforms. The concern that we have is that limited reform might be the only reform that we end up receiving. So, therefore, before we see if we want to accomplish some reform this year, let's codify what is already being done in the field, and then we all have to come to some sort of agreement on what the big objective really is, and I am not sure that we have really done that yet.

So, again, I just want to reemphasize that a concern here is on our part that limited reform might be the only reform that we would end up with; that if Congress passes reform this year, we might not get anything else in subsequent sessions.

Mr. EDWARDS. Mr. Chairman, would you like to follow up?

And I welcome your view. I would hope it is not the case that if we passed limited reform this year there will be no pressure to pass real reform, more significant reform in future years, and I would hope you would be the very players to see that that momentum continues.

But I would like to follow up on your comment. Does that mean basically that the American Legion at this point will not be actively trying to push the bill?

Mr. VITIKACS. No, it does not mean that at all. I think that there is still an opportunity here to achieve some reforms in a statutory manner, to codify what VA is already accomplishing in the field.

They are already stretching the eligibility statutes as far as they can stretch them, and I would like to be able to see them do that above board so we can at least achieve a beginning this year to build on.

So we would be glad to work with this committee in this sense.

Mr. EDWARDS. With the Chairman's indulgence, if we could continue.

Mr. WARFIELD. Thank you, Mr. Stump, Mr. Edwards.

Ms. Kelli Willard West, our Director, and I testified before Senator Simpson's committee on this very subject, and Ms. West has done a tremendous amount of work on this, and I respect her opinion immensely. So if you do not mind, I would like her to respond if possible.

The CHAIRMAN. Proceed.

Mr. WARFIELD. Thank you.

Ms. WEST. The position of Vietnam Veterans of America has been in agreement with the other organizations in terms of what the overall objectives are. Together with the Partnership for Veterans' Health Care Reform, we have all worked very hard to set and maintain, I think, common goals for the long-term objectives of improving the VA health care system.

In the meantime, I agree with you that the legislative session is very short, and there is a limited amount to what can be accomplished in this budget climate. Our bottom line, I guess, and we supported the chairman's provisions passed in the last session, the short-term needs are to eliminate barriers to cost effective outpatient care and to provide new funding streams.

We are not opposed to interim measures that will help us get toward that long-term goal.

Mr. EDWARDS. So you do not see passage of an incremental effort as being contrary to or hurtful to any future effort to pass a more significant reform?

Ms. WEST. Well, certainly it depends on the provisions of that incremental measure, but in general terms, no.

Mr. EDWARDS. I mean to be specific about it, I guess, you know, the real problem, among others, I guess, is the Ways and Means Committee. You know, if we are going to have a package to help one single veteran, it has to get approval of the Ways and Means Committee. To change Medicare reimbursement, I mean, is there anybody here who would bet even money with their own money that that will pass this year?

I would probably stretch that a little farther. What kind of odds? I would be willing to make some bets here. I would be willing even to give you some odds. I wish that were not the case.

And so at some point if we have, you know, nine-to-one odds that we are not going to get something through the Ways and Means Committee this year, then, you know, I urge us all together as a family here to really communicate closely and figure out how we get the leaders, and the chairman is leading this fight; how can we work together to help him within this system?

But I think at some point you are going to have to help motivate the grassroots veterans out there so that when we go back home we do not just hear, "Congressman, will you co-sponsor H.R. 3119?" That is an easy out for people, and if I am saying anything today,

it is do not let members, me or anybody else for that matter, just take an easy out. You bet I will co-sponsor that, and nothing will ever happen.

So I hope we can work closely, and I appreciate your comments.

One last comment, if I could, Mr. Vitikacs. Unless I am mistaken, I think the American Legion wrote Senator Hatfield opposing the House language that would micro manage Secretary Brown's office. Is that correct?

Mr. VITIKACS. Well, and if they did, that is above my pay grade.

Mr. EDWARDS. Okay.

Mr. VITIKACS. So I do not know.

Mr. EDWARDS. Okay. Well, thank you all, and I look forward to working with you and the chairman on eligibility reform. I deeply hope we can do something this year.

Thank you.

The CHAIRMAN. Chet, I want to thank you for hanging in here with me, and all the rest of you. We thank you very much for your patience, the gentlemen and Ms. West for testifying today, and if you have no more comments, any one else, the meeting is adjourned.

Let me say one more thing. The request you made for possible hearings, I see no problem with that. I think that could be worked out. When you are ready and the proper time comes, let us know and we can do that.

Thank you.

[Whereupon, at 1:21 p.m., the committee was adjourned.]

A P P E N D I X

STATEMENT HONORABLE BOB STUMP COMMITTEE ON VETERANS' AFFAIRS HEARING ON ADMINISTRATION'S FISCAL YEAR 1997 BUDGET MARCH 29, 1996

THE COMMITTEE WILL COME TO ORDER.

**TODAY WE ARE MEETING TO HEAR TESTIMONY ON THE BUDGET
FOR FISCAL YEAR 1997.**

**THE HONORABLE PRESTON TAYLOR, ASSISTANT SECRETARY
FOR VETERANS EMPLOYMENT AND TRAINING IN THE
DEPARTMENT OF LABOR, AND MR. LARRY RHEA, FROM THE
NON COMMISSIONED OFFICERS ASSOCIATION, WILL NOT BE
HERE TODAY.**

**WITHOUT OBJECTION, THEIR STATEMENTS WILL BE INCLUDED
FOR THE RECORD.**

THE FOUR PANELS TESTIFYING TODAY WILL BE:

FIRST, THE SECRETARY OF VETERANS AFFAIRS, JESSE BROWN;

THEN, THE CHIEF JUDGE OF THE U.S. COURT OF VETERANS APPEALS, FRANK NEBEKER;

THIRD, THE INDEPENDENT BUDGET PANEL, WITH REPRESENTATIVES FROM AMVETS, DAV, PVA AND THE VFW; AND, FINALLY

FOURTH, REPRESENTATIVES FROM THE AMERICAN LEGION AND THE VIETNAM VETERANS OF AMERICA.

SECRETARY BROWN HAS INDICATED HE CAN ONLY BE WITH US UNTIL 11:30.

THEREFORE, WE WILL LIMIT OPENING REMARKS TO MYSELF AND THE COMMITTEE'S RANKING MEMBER, MR. MONTGOMERY.

THEN WE CAN GO STRAIGHT TO THE SECRETARY FOR HIS STATEMENT.

FOLLOWING THE SECRETARY, ALL MEMBERS WILL BE RECOGNIZED FOR 5 MINUTES TO MAKE ANY REMARKS AND ASK QUESTIONS.

MR. SECRETARY, FIRST LET ME WELCOME YOU AND THE WITNESSES APPEARING WITH YOU.

WE KNOW THERE ARE EXTRAORDINARY DEMANDS ON YOUR TIME DURING THE BUDGET SEASON, AND WE APPRECIATE YOUR BEING AVAILABLE TODAY.

I WOULD ALSO LIKE TO EXPRESS THE COMMITTEE'S APPRECIATION FOR THE TIME SPENT BY VA OFFICIALS EARLIER THIS WEEK BRIEFING STAFF ON THE DETAILS OF THE VA BUDGET REQUEST FOR FISCAL YEAR 1997.

MR. SECRETARY, GIVEN THE DIFFICULT FISCAL ENVIRONMENT WE ARE ALL OPERATING UNDER THESE DAYS, YOUR BUDGET REQUEST APPEARS REASONABLE AND ADEQUATE FOR MAINTAINING QUALITY CARE AND SERVICES FOR OUR NATION'S VETERANS.

HOWEVER, THE DEPARTMENT'S MANAGEMENT INITIATIVES AND RESTRUCTURING EFFORTS WILL BE CRITICAL TO MAINTAINING THOSE SERVICES UNDER CURRENT AND FUTURE FUNDING RESTRAINTS.

AS YOU ARE WELL AWARE, THIS COMMITTEE HAS A LONG TRADITION OF BIPARTISANSHIP.

I BELIEVE OUR MEMBERS ARE READY TO WORK WITH YOU ON THAT BASIS AS DR. KIZER, UNDER SECRETARY FOR HEALTH, AND MR. VOGEL, UNDER SECRETARY FOR BENEFITS, BEGIN IMPLEMENTING THEIR RESPECTIVE PLANS TO MODERNIZE THEIR OPERATIONS.

WE ARE CONTINUING OUR PURSUIT OF HEALTH CARE ELIGIBILITY REFORM, AND AWAIT RECOMMENDATIONS FROM THE ADJUDICATION COMMISSION.

BUT, I MUST HONESTLY TELL YOU THAT OUR BIPARTISAN EFFORTS HAVE NOT BEEN MADE EASIER BY THE LEVEL OF RHETORIC OVER THE BUDGET DEBATE THIS PAST YEAR.

FUTURE BUDGET PROJECTIONS ARE JUST THAT, BOTH THE PRESIDENT'S AND CONGRESS'S.

BLASTING THE BUDGET PROJECTIONS OF OTHERS WHILE DENYING THE REALITY OR EXISTENCE OF YOUR OWN PROJECTIONS IS NOT HELPFUL TO OUR EFFORTS TO REFOCUS VA HEALTH CARE.

WE SHOULD BE SHIFTING FROM AN EMPHASIS ON INFRASTRUCTURE, TO RESTRUCTURING HEALTH CARE DELIVERY WITHOUT NEEDLESSLY SCARING VETERANS INTO A POSITION OF OPPOSING ANY CHANGE AT ALL.

THE ADMINISTRATION'S OUT-YEAR PROJECTIONS FOR VA HEALTH CARE SPENDING IN THE FISCAL YEAR 1997 BUDGET PROPOSAL ARE TOTALLY UNREALISTIC AND THEREFORE UNBELIEVABLE.

I BELIEVE THEY ARE SO UNREALISTIC AS TO DRAW INTO QUESTION THE CLAIM THAT THIS IS A BALANCED ADMINISTRATION BUDGET.

IF PROJECTED SAVINGS ON VA HEALTH CARE ARE NOT GOING TO MATERIALIZE TO THE DEGREE SUGGESTED IN THIS BUDGET, THEN WHY SHOULD WE BELIEVE THAT OTHER PROJECTED SAVINGS ARE ANYMORE ACHIEVABLE ?

AGAIN, I HOPE THE RHETORIC CAN BE TONED DOWN AND WE CAN ALL WORK TOWARD STREAMLINING AND IMPROVING THE EFFICIENCY OF DELIVERING VA HEALTH CARE AND OTHER BENEFITS.

THANK YOU, MR. SECRETARY, FOR YOUR PRESENTATION.
WE WOULD CERTAINLY LOOK FORWARD TO WORKING WITH
YOU IN ALL VA PROGRAM AREAS.

OUR NEXT WITNESS IS THE HONORABLE FRANK Q. NEBEKER,
CHIEF JUDGE, U.S. COURT OF VETERANS APPEALS.

WELCOME, JUDGE NEBEKER, THE COMMITTEE CERTAINLY
APPRECIATES YOUR EFFORTS ON BEHALF OF VETERANS AND
WE HOPE YOU WILL RELAY THAT MESSAGE TO YOUR
COLLEAGUES ON THE COURT.

PLEASE PROCEED AS YOU WISH.

THANK YOU, JUDGE NEBEKER.

WE SHARE YOUR CONCERNS FOR BUDGET IMPACTS ON THE
COURT'S OPERATIONS.

I BELIEVE A SUBCOMMITTEE HEARING IS BEING PLANNED FOR
THE ISSUE OF THE PRO BONO PROGRAM, AND WE LOOK
FORWARD TO WORKING WITH YOU ON ALL THE ISSUES YOU
HAVE HIGHLIGHTED TODAY.

OUR THIRD PANEL CONSISTS OF REPRESENTATIVES FROM THE
VETERANS SERVICE ORGANIZATIONS WHICH COMPILE THE
INDEPENDENT BUDGET.

FROM AMVETS WE HAVE:

BOB CARBONNEAU

FROM THE DAV WE HAVE:

RICK SURRETT

FROM THE PVA WE HAVE:

RUSS MANK

AND FROM THE VFW WE HAVE:

JIM MAGILL

**GENTLEMEN, YOU MAY UTILIZE FIVE MINUTES EACH TO
SUMMARIZE THE INDEPENDENT BUDGET IN THE ORDER YOU
DEEM MOST APPROPRIATE.**

WHO WOULD LIKE TO BEGIN?

**THANK YOU ALL VERY MUCH FOR YOUR TESTIMONY AND FOR
THE EFFORT YOUR ORGANIZATIONS PUT INTO THE
INDEPENDENT BUDGET EACH YEAR.**

**GENTLEMEN, THANK YOU AGAIN FOR YOUR TESTIMONY
TODAY.**

OUR FINAL PANEL TODAY IS JOHN VITIKACS FROM THE AMERICAN LEGION AND BILL WARFIELD FROM THE VIETNAM VETERANS OF AMERICA.

GENTLEMEN, PLEASE SUMMARIZE YOUR STATEMENTS WITHIN 5 MINUTES EACH .

THANK YOU FOR YOUR TESTIMONY, AND AGAIN WE LOOK FORWARD TO WORKING WITH YOU ON THE CHALLENGING ISSUES FACING THIS COMMITTEE AND OUR NATION'S VETERANS.

GENTLEMEN, THANK YOU AGAIN FOR YOUR TESTIMONY TODAY.

I ALSO WANT TO THANK EVERYONE FOR BEING HERE TODAY.

THE COMMITTEE MAY SUBMIT QUESTIONS FOR THE RECORD TO TODAY'S WITNESSES.

THIS HEARING IS ADJOURNED.

**THE HONORABLE MICHAEL BILIRAKIS
COMMITTEE ON VETERANS' AFFAIRS
MARCH 29, 1995**

**HEARING ON DEPARTMENT OF VETERANS' AFFAIRS
FISCAL YEAR 1997 BUDGET**

THANK YOU, MR. CHAIRMAN.

**I WANT TO COMMEND YOU FOR SCHEDULING THIS TIMELY
HEARING ON THE ADMINISTRATION'S FISCAL YEAR 1997 BUDGET
REQUEST FOR THE DEPARTMENT OF VETERANS' AFFAIRS. I
WOULD ALSO LIKE TO TAKE A MOMENT TO WELCOME
SECRETARY BROWN TO THE COMMITTEE.**

**ALTHOUGH I AM ANXIOUS TO HEAR ABOUT THE
ADMINISTRATION'S OVERALL BUDGET RECOMMENDATIONS FOR
THE UPCOMING FISCAL YEAR, I WOULD LIKE TO FOCUS MY
COMMENTS ON AN ISSUE THAT IS OF EXTREME IMPORTANCE TO
ALL OF FLORIDA'S VETERANS -- THE ALLOCATION OF RESOURCES
THROUGHOUT THE VA HEALTH CARE SYSTEM.**

**AT LAST WEEK'S HOSPITALS AND HEALTH CARE HEARING, I
EXPRESSED MY CONCERNS TO DR. KIZER, BUT I WOULD LIKE TO
BRING THEM TO YOUR ATTENTION AS WELL SECRETARY BROWN.**

VETERANS FREQUENTLY CONTACT ME TO EXPRESS THEIR FRUSTRATIONS IN TRYING TO ACCESS THE VA HEALTH CARE SYSTEM IN FLORIDA. IN PARTICULAR, I HEAR FROM VETERANS WHO WERE RECEIVING TREATMENT AT THEIR LOCAL VA MEDICAL CENTER PRIOR TO MOVING TO FLORIDA. HOWEVER, ONCE THEY MOVE TO FLORIDA, THEY ARE OFTEN TURNED AWAY FROM VA FACILITIES, BECAUSE UNFORTUNATELY FOR MANY VETERANS, FLORIDA HAS ONE OF THE LOWEST RATES OF DISCRETIONARY CARE IN THE COUNTRY.

IT IS HARD FOR THESE VETERANS TO UNDERSTAND HOW THEY CAN LOSE THEIR VA HEALTH CARE SIMPLY BY MOVING TO ANOTHER PART OF THE COUNTRY. MANY OF THEM ARE FORCED TO MOVE BACK HOME TO GET THE CARE TO WHICH THEY ARE ACCUSTOMED.

FLORIDA AND OTHER SUNBELT STATES ALSO FACE THE ADDITIONAL PROBLEM OF "SNOWBIRDS" -- OUR TERM OF ENDEARMENT FOR INDIVIDUALS WHO TRAVEL SOUTH FOR THE WINTER. ALTHOUGH SNOWBIRDS ARE IMPORTANT TO OUR STATE'S ECONOMY, DURING THE WINTER MONTHS, FLORIDA VETERANS ARE LITERALLY CROWDED OUT OF THE SYSTEM BY THESE WINTER VISITORS.

AS YOU KNOW, SECRETARY BROWN, SEVERAL RECENT GAO REPORTS HIGHLIGHT THE FUNDING DISPARITIES AMONG VA HEALTH CARE FACILITIES ACROSS THE COUNTRY. THE DEPARTMENT OF VETERANS' AFFAIRS HAS HAD A SYSTEM IN PLACE FOR THREE YEARS, KNOWN AS RPM (RESOURCE PLANNING AND MANAGEMENT) WHICH WAS DESIGNED TO GIVE VETERANS BETTER ACCESS TO HEALTH CARE REGARDLESS OF WHERE THEY LIVE.

HOWEVER, ACCORDING TO GAO, THE DEPARTMENT HAS MADE ONLY MINIMAL CHANGES IN FUNDING ALLOCATIONS FOR FACILITIES DURING THE TWO BUDGET CYCLES IN WHICH RPM HAS BEEN USED. AS A RESULT, MANY MEDICAL CENTERS MUST CONTINUE TO RATION CARE TO VETERANS.

AT LAST WEEK'S HEARING, DR. KIZER ACKNOWLEDGED THAT "RESOURCES ARE NOT EQUITABLY ALLOCATED TO OUR VETERANS FACILITIES...WE CANNOT AFFORD TO PERPETUATE HISTORICAL FUNDING IMBALANCES." I APPRECIATE DR. KIZER'S COMMENTS.

WE NEED TO TAKE STEPS TO IMPLEMENT A PLAN TO BETTER ALLOCATE HEALTH CARE FUNDING AMONG VA FACILITIES SO THAT VETERANS, NO MATTER WHERE THEY LIVE OR WHAT CIRCUMSTANCES THEY FACE, HAVE EQUAL ACCESS TO QUALITY HEALTH CARE.

MR. SECRETARY, I HOPE YOU WILL WORK WITH THE MEMBERS OF THIS COMMITTEE TO ACCOMPLISH THIS GOAL.

MR. CHAIRMAN, I LOOK FORWARD TO WORKING WITH YOU AND THE OTHER MEMBERS OF THIS COMMITTEE TO ENSURE THAT OUR NATION'S VETERANS RECEIVE THE BENEFITS TO WHICH THEY ARE ENTITLED.

THANK YOU.

Opening Statement
for
Honorable Chet Edwards, Ranking Member
Subcommittee on Hospitals and Health Care

Full Committee Hearing on
DVA's Fiscal Year 1997

March 29, 1996
Room 334, CHOB

Mr. Chairman, I want to welcome Secretary Brown and commend him for his advocacy. He has been a tireless fighter and a national conscience, reminding all of us of the debt we owe our veterans.

I am sure, Mr. Secretary, that this budget does not represent all that you would want, but I'm just as sure you have won what you believe is a fair package.

Let me also salute the representatives of the national veterans' service organizations who are testifying here today. I want to acknowledge both the invaluable work that's done by the authors of the Independent Budget, and the contributions which all of the veterans organizations make, both during the budget process, and on an ongoing basis.

As I see it, this budget is a fiscal plan for a Department, some of whose key programs are undergoing substantial streamlining. I applaud the service organizations for their role over the years in encouraging many of the reforms of the Veterans Health Administration which Dr. Kizer has begun.

I look forward to continuing to work with all of you to insure that the planned changes which lie ahead are sound and improve service-delivery to our veterans.

**OPENING STATEMENT
OF
THE HONORABLE TIM HUTCHINSON
MARCH 29, 1996
FULL COMMITTEE HEARING ON THE
FY 97 DEPARTMENT OF VETERANS AFFAIRS BUDGET**

Thank you, Mr. Chairman.

In respect of your request to minimize our opening remarks so that we can make the best use of Secretary Brown's time with the Committee, I request that my opening remarks be entered into the record.

I would like to welcome Secretary Brown and the other departmental officials who have accompanied him this morning. As you are aware, the Subcommittee on Hospitals and Health Care held a hearing on the Administration's FY 97 Medical Care and Major Construction request March 21st. I would like to compliment Dr. Kizer for the frank and open dialogue which ensued during that hearing. Although I have specific criticisms of the Major Construction request, I am generally pleased with the Department's fiscally conservative and responsible approach to the FY 97 Medical Care Budget.

The Full Committee's recommendation represents an increase of \$505 million over the FY 96 House/Senate Conference Level. The Administration's request is \$61 million less than the Full Committee's recommendation, representing an increase to Medical Care of \$444 million.

Underscoring the importance of the VA Research program, I seriously question the Administration's commitment to this vital program. It has been the Department's position in past budget submissions to allow the Committee to bail out the Research program and I see this year's approach as no different. The Administration's request holds the Research Budget at the FY 1996 level of \$257 million. I am very concerned about the Department's efforts to fund new research initiatives and question its commitment to the prosthetic and rehabilitative needs of aging veterans under a level that represents no inflationary or programmatic growth. With the continued emphasis upon ambulatory care, and VA's closure of 2,294 beds or the equivalent of 12 community hospitals in the last year and an additional 2,000 in this last quarter, I can only register surprise at the inclusion of two new hospital construction projects in the Administration's request. Although Dr. Kizer explained the rationale of this proposed construction, the real answer to this question lies within the politics of the Office of the Secretary and the White House.

In this same vein, I would like to draw attention to the projected Medical Care budget for the years following FY 97. The proposed Administration Medical Care budgets go from a high of \$17 billion in FY 97 to a low of \$13 billion in FY 2000 -- a phenomenon graphically analogous to the Big Dipper. Even under a scenario allowing for management efficiencies and changes in medical practice it would seem that it would be impossible for the VA health

care system to withstand such a precipitous funding decline.

With an appreciation of the importance of data, the Full Committee has recommended an additional \$3 million to the General Operating budget for the continuation of the Survey of Veterans. This important data resource is the only source of data-specific information on VA medical users and provides a snapshot profile of the veteran population for longitudinal comparisons. We know of the precipitous decline of the veteran population, but it is only through survey information that we can devise real solutions to problems that are unique to veterans no matter what the number.

I look forward to the Secretary's testimony and sincerely hope that in the months leading up the presidential election that the leadership of the Department of Veterans Affairs directs its actions to its mission of serving veterans -- not the electronic politicization of the Department.

Statement by Rep. Gutierrez
Committee on Veterans Affairs
March 29, 1996

Good morning.

Mr. Chairman, Ranking Member Montgomery, I would like to thank you for holding this important hearing to discuss the Administration's fiscal year 1997 budget.

I also would like to commend you both for introducing eligibility reform bills to the Congress once again. I am confident that this committee, which has worked to produce bipartisan eligibility reform in the past, will make this one of its top priorities for 1996.

Secretary Brown, once again I welcome you to these chambers. I am also looking forward to seeing you at the Vietnam Memorial later this morning. I am pleased that you will be attending the National Puerto Rican Coalition event.

Secretary Brown, you have demonstrated remarkable patience and resolve in these tough times. Restructuring the nation's largest health care system is no easy task. Doing so without a fiscal year 1996 budget is even harder.

You are an aggressive and articulate advocate for our nation's veterans and I commend you for speaking on their behalf.

And that is why I was extremely troubled to learn that this Congress included language in the Omnibus Appropriation that would preclude you from doing your job.

I know the veterans of America do not want Secretary Brown, their chief advocate, muzzled from speaking out on their concerns.

Secretary Brown, I believe the VA must make the shift from costly inpatient and primary care to cost-efficient outpatient and ambulatory programs. This will allow the VA to achieve greater savings and flexibility without decreasing its services to our nation's veterans.

This will not come without pain and confusion. Impending staff cutbacks of up to 10,000 workers in 1997 will have an effect on services. Of course this situation raises concerns.

I am concerned that these cutbacks and the possible closure of facilities will hamper the VA's ability to provide quality health care for veterans.

In addition, I would hope that I can encourage the Administration to fund more fully the nursing home account, and medical and prosthetic research.

The veterans population is rapidly aging. However, funding for nursing home construction grants has been reduced by 17 percent. I am concerned that a greying veteran population will not receive the long-term care it needs.

Medical and prosthetic research is also important. The VA has developed expertise in a number of medical research areas. However, with veterans growing older the VA should target its research toward those diseases that chronically afflict the elderly, such as alzheimers and osteoporosis.

I am sure that Secretary Brown and Dr. Kizer have planned to address these issues.

Again, I thank you for convening this hearing, Mr. Chairman, and look forward to our witnesses' testimony.

Statement of Rep. Michael P. Flanagan of Illinois
Joint VA Committee Hearing
FY 1997 Budget Presentation
March 29, 1996
10:00 AM 334 CHOB

In the interest of time I will make my statement brief and submit the rest for the record

I would like to join my colleagues in welcoming you, Secretary Brown, to this Hearing today. I also extend my thanks to you for taking the time and effort to come before this Committee to discuss the VA Department's budget priorities and proposals for Fiscal Year 1997.

I have read your advanced testimony, Mr. Secretary, and I thank you for being upfront and direct. I think that we'll all agree that when it comes to America's veterans, there is no place for politics. I think that you summed it up Mr. Secretary, when you said, "VA benefits programs provide assistance to veterans in recognition of their service to their country and the impact of that service on their quality of life."

Mr. Chairman, I look forward to today's Hearing and the testimony from Secretary Jesse Brown.

HEARING:**VA BUDGET PROPOSAL FOR FY97
COMMITTEE ON VETERANS AFFAIRS****BY
CONGRESSWOMAN CORRINE BROWN**

Mr. Chairman, thank you for holding this important hearing today. I am honored to be among two of our nation's most dedicated veterans' advocates. The first gentleman has been a mentor and a friend -- our beloved Ranking Member Sonny Montgomery. Sonny will be sorely missed around here after he retires next year. I want to take this opportunity to publicly thank him for all that he has done for America's veterans. The other star veterans' advocate is here to testify before our committee -- Veterans Affairs Secretary Jesse Brown. Secretary Brown has spent his entire

professional career as an advocate for veterans. He has been a true champion for the brave men and women who have served their country.

The President has just released his proposed budget for FY97 and I am pleased to see that comprehensive medical care and construction of new facilities for growing areas -- like East Central Florida -- remain priorities of this Administration.

As you know, Florida's veterans population has grown substantially in the last few years. The President's budget specifically states that "The East Central

Florida area has been identified for over ten years as a critically underserved area with a growing population of retired, limited income veterans." I look forward to hearing your comments on what the President's budget will mean for Florida's veterans.

There are nearly 2 million Florida veterans are concerned about what will happen to them when they get sick and need medical attention. According to some estimates, there are 100 new veteran residents in Florida each day.

The President knows that we must never forget the sacrifices made by our

veterans. In our quest to pass a responsible budget, it would be wrong to do this by cutting back on health care for our veterans, who have made this country what it is today. So, I commend President Clinton and VA Secretary Jesse Brown for responding to veterans' needs with such strong advocacy. And, I look forward to hearing testimony from Secretary Brown and the other witnesses here today.

STATEMENT BY CONGRESSMAN FRANK MASCARA
HEARING ON DVA'S FISCAL 1997 BUDGET
MARCH 29, 1996

THANK YOU MR. CHAIRMAN. IT IS GOOD TO SEE YOU SECRETARY BROWN. I AM PLEASED YOU HAVE COME HERE THIS MORNING TO EXPLAIN THE ADMINISTRATION'S PROPOSED DEPARTMENT OF VETERANS' AFFAIRS BUDGET FOR FISCAL 1997.

LIKE MANY HERE, I WOULD FEEL BETTER IF WE HAD THE FISCAL 1996 BUDGET RESOLVED BEFORE WE BEGIN TALKING ABOUT THE FISCAL 1997 BUDGET. I DO NOT THINK THIS LURCHING FROM CONTINUING RESOLUTION TO CONTINUING RESOLUTION IS SERVING THE BEST INTERESTS OF OUR VETERANS OR MEETING THEIR NEEDS.

I FOR ONE WISH THIS MADNESS WOULD STOP AND I THINK MR. SECRETARY IF THE MEMBERS OF THIS COMMITTEE HAD ANYTHING TO DO WITH THE SITUATION, WE WOULD HAVE WORKED TOGETHER IN A BIPARTISAN FASHION AND AGREED TO A FISCAL 1996 APPROPRIATIONS FIGURE LONG AGO.

I AM VERY PLEASED THAT THE PRESIDENT IS SEEKING A NEARLY \$1 BILLION INCREASE IN VA FUNDING AND THAT THIS INCLUDES A BOOST OF \$448 MILLION IN SPENDING ON VA MEDICAL CARE. I AM ALSO HAPPY THAT THE ADMINISTRATION IS PROPOSING THE VA HEALTH CARE SYSTEM BE ALLOWED TO RETAIN A PORTION OF THE THIRD-PARTY PAYMENTS IT

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RECEIVES FOR PROVIDING HEALTH CARE SERVICES. VIRTUALLY EACH MEMBER OF THIS COMMITTEE SUPPORTS ALLOWING THE VA TO KEEP THIS MONEY. WE THINK THIS MOVE, ALONG WITH CHANGES IN ELIGIBILITY REQUIREMENTS, WILL HELP OPEN UP THE VA SYSTEM TO COUNTLESS VETERANS. IT IS A GOOD MOVE AND I HOPE YOU WILL SERIOUSLY CONSIDER INCLUDING MEDICARE AND MEDICAID PAYMENTS IN THIS PROPOSED PROGRAM.

NOW THAT I HAVE VOICED PRAISE FOR ASPECTS OF THIS PROPOSED BUDGET, I MUST ALSO EXPRESS SOME GRAVE CONCERNS.

I AM TROUBLED THAT THIS BUDGET WILL APPARENTLY LEAD TO A CONTINUATION OF THE SUBSTANTIAL REDUCTION IN FORCE ALREADY EXPERIENCED BY THE VA OVER THE PAST SEVERAL YEARS.

IN MEETINGS AND COMMITTEE HEARINGS OVER THE PAST FEW MONTHS, IT HAS BECOME INCREASINGLY CLEAR THAT THE VA IS CONTINUING TO HAVE PROBLEMS PROCESSING DISABILITY CLAIMS, PAYING MONTGOMERY G.I. BENEFITS IN A TIMELY AND EFFICIENT MANNER, AND KEEPING OUR COUNTRY'S VETERANS' CEMETERIES IN TOP SHAPE.

IT IS ALSO CLEAR YOUR DEPARTMENT IS STRUGGLING TO MEET INCREASED OUTPATIENT MEDICAL VISITS AND SMOOTHLY CARRYING OUT THE MUCH NEEDED REFORMS IN THE VA HEALTH CARE SYSTEM.

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WHILE I AM ALL FOR EFFICIENCIES AND RUNNING YOUR DEPARTMENT AS EFFECTIVELY AS IS HUMANLY POSSIBLE, THE TRUTH IS YOU NEED MORE MONEY.

OUR COMMITTEE RECOGNIZED THAT SEVERAL WEEKS AGO WHEN WE APPROVED A BUDGET RECOMMENDATION OF \$600 MILLION MORE THAN WHAT THE ADMINISTRATION IS SEEKING.

FROM WHAT I KNOW, I AM BEGINNING TO THINK MAYBE AN ADDITIONAL \$1 BILLION WOULD BE MORE REALISTIC.

OUR VETERANS HAVE GIVEN US THEIR BEST AND NOW IT IS OUR TURN TO DO THE SAME FOR THEM. I THINK WE REALLY HAVE TO MAKE EVERY EFFORT TO SEE THAT YOUR DEPARTMENT GETS THE FUNDS IT NEEDS TO ADEQUATELY MEET THEIR NEEDS.

THANK YOU AND I LOOK FORWARD TO WORKING WITH YOU IN THE WEEKS AND MONTHS AHEAD.

--THE END--

Statement of
Representative Wes Cooley
Committee on Veterans' Affairs
Hearing on Administration's FY97 Budget
March 29, 1996

Thank you, Mr. Chairman. Thank you, as well, to Secretary Brown -- and to our other distinguished guests. I have listened carefully to your legislative recommendations, and I will study your written submissions. As always, you have presented this committee with a well-considered agenda.

I'd like to take a moment to acknowledge Chairman Stump and Ranking Member "Sonny" Montgomery. Since coming to Congress, I have learned so much from both of these men. The budget battle over the past year has been ugly at times, but both Chairman Stump and Representative Montgomery have managed to create a bipartisan consensus on the issues that probably does not exist in any other committee.

As a veteran, I am well aware that veterans are willing to make reasonable sacrifices to help balance our nation's budget. Despite fiscal pressures, this Committee has acted, in a bipartisan manner, to protect veterans benefits. I trust that this committee's bi-partisan pro-veteran tradition will continue as we consider the budget for Fiscal Year 1997. Pundits have commented that the Administration's budget is "dead on arrival." In many areas, that may be true. This Committee, though, will carefully the Administration's suggestions and act in the best interests of our nation's veterans.

Thank you, Mr. Chairman.

Statement by
Congressman Dan Schaefer

HOUSE VETERANS' AFFAIRS COMMITTEE
March 29, 1996

NATIONAL VETERANS' TRAINING INSTITUTE FUNDING

**MR. CHAIRMAN, I WOULD LIKE TO
WELCOME THE SECRETARY OF VETERANS
AFFAIRS JESSE BROWN TO THE
COMMITTEE TODAY. I LOOK FORWARD TO
HEARING HIS VIEWS AND HAVING A FRANK
DISCUSSION ON THE FY 1997 BUDGET FOR
OUR COUNTRY'S VETERANS.**

**I WOULD ALSO LIKE TO SPEAK THIS
MORNING IN SUPPORT OF THIS
COMMITTEE'S FISCAL YEAR 1997 BUDGET
RECOMMENDATION.**

DESPITE OUR COUNTRY'S
EXTRAORDINARILY TIGHT BUDGET
SITUATION, THE COMMITTEE HAS
RECOMMENDED A \$39.9 BILLION BUDGET
FOR THE DEPARTMENT OF VETERANS
AFFAIRS---A \$1.3 BILLION INCREASE FROM
THE PREVIOUS FISCAL YEAR. I
CONGRATULATE YOU, MR. CHAIRMAN, AND
THE DISTINGUISHED MINORITY LEADER FOR
YOUR PRODUCTIVE EFFORTS IN REACHING
THIS BUDGET RECOMMENDATION.

WHEN OUR VETERANS FIRST ENLISTED
FOR MILITARY SERVICE OR WERE DRAFTED,
THEY MADE A COMMITMENT TO THIS
COUNTRY. NOW WE MUST DEMONSTRATE
OUR COUNTRY'S COMMITMENT TO THEM.
THE COMMITTEE BUDGET DOES JUST
THAT.

MR. CHAIRMAN, TODAY I WOULD LIKE TO EXPRESS MY PARTICULAR APPRECIATION FOR THE COMMITTEE'S SUPPORT OF \$3 MILLION IN FUNDING FOR THE NATIONAL VETERANS TRAINING INSTITUTE (NVTI), WHICH IS PART OF THE U.S. DEPARTMENT OF LABOR'S BUDGET. I AM VERY DISTURBED THAT THE ADMINISTRATION'S FY 1997 BUDGET OMITTS FUNDING FOR THIS IMPORTANT INSTITUTE.

NVTI IS A DEPARTMENT OF LABOR TRAINING CENTER PROVIDING TRAINING TO VETERAN SERVICE PROVIDERS, PARTICULARLY DISABLED VETERANS' OUTREACH PROGRAM OFFICERS (DVOPS), LOCAL VETERANS' EMPLOYMENT REPRESENTATIVES (LVERS), LOCAL EMPLOYMENT SERVICE OFFICE MANAGERS, VETERANS' EMPLOYMENT AND TRAINING SERVICE (VETS) STAFF AND TRANSITION ASSISTANCE PROGRAM (TAP) FACILITATORS.

IT ASSURES THAT A CONSISTENT QUALITY OF SERVICES IS BEING GIVEN TO VETERANS THROUGHOUT ALL THE VETS PROGRAMS.

THOUGH \$3 MILLION IS A RELATIVELY SMALL SUM OF MONEY COMPARED WITH OTHER PROGRAMS, NVTI LEVERAGES ITS FUNDING VERY SUCCESSFULLY, PRODUCING GREAT VALUE BOTH FOR ITS PARTICIPANTS AND TO AMERICAN TAXPAYERS. LAST YEAR, FOR EXAMPLE, NVTI GRADUATED ITS 20,000TH VETERAN SERVICE PROVIDER FROM ITS FACILITIES IN DENVER, COLORADO.

LOOKING TO THE FUTURE, NVTI IS MOVING TOWARD A SIGNIFICANT EXPANSION IN ITS USE OF DISTANCE LEARNING, SINCE IT ESTIMATES THAT BETWEEN A THIRD AND A HALF OF ITS EXPENSES COME FROM TRAVEL AND LODGING.

**CLEARLY, NVTI IS A DYNAMIC
ORGANIZATION OFFERING AN EXCELLENT
VALUE TO OUR NATION'S TAXPAYERS. I
SUPPORT ITS FUNDING RECOMMENDATION
OF \$3 MILLION AND LOOK FORWARD TO
SHARING MANY OF ITS SUCCESS STORIES
WITH THIS COMMITTEE IN THE MONTHS TO
COME.**

**AGAIN, MR. CHAIRMAN, I WANT TO
WELCOME SECRETARY BROWN TODAY AND
REITERATE MY SUPPORT FOR THE
COMMITTEE'S FY 1997 BUDGET
RECOMMENDATION.**

PREPARED STATEMENT OF HON. TERRY EVERETT

Mr. Chairman. I would like to take this opportunity to make just a few remarks regarding VA funding and management in the areas of computer modernization and strategic planning, both of which have been strongly criticized by GAO and VA's own contractors.

First, Mr. Secretary, I know that all this has not happened on your watch. But you're the one in charge now, and I'm hopeful that you will direct some of that fire towards ensuring the career staff carry through.

The President's budget is generally sound. I am a bit concerned about reductions in FTET in VBA, but I am hopeful that the restructuring planning now underway will lessen any impact on services. I would note that in the restructuring plan, little detail has been provided to the committee about how VBA plans to increase veterans access to the system. I'm sure the veterans organizations would be more comfortable with restructuring if that part of the plan were made available in detail.

I'm also pleased to see that you have requested an increase for the National Cemetery Service as mentioned in your testimony. The Committee has requested even more money in its views and estimates to the Budget Committee so that NCS can make some headway on overall system improvement.

One thing about VA stewardship over the years that troubles me a great deal is computer modernization. Mr. Secretary, the GAO has said that since 1986, VA has spent at least \$296 million on computer modernization and has little to show for it in terms of improvements in service to veterans. The main reason they cite is a lack of a disciplined planning process that has led to numerous false starts. As a businessman, I've got to tell you Mr. Secretary, that in the private sector, VA would be out of business. Obviously, we will not let that happen because I know you and members of this committee both and our veterans are a precious national asset and a source of pride.

But, we cannot let poor planning and program execution waste taxpayers money because that doesn't do anything to help veterans.

Mr. Secretary, in the coming weeks, we will be holding additional oversight hearings on VBA computer modernization and restructuring. I hope we have your personal commitment to require that future programs—including VETSNET—will be developed in a business-like manner.

PREPARED STATEMENT OF HON. SANFORD BISHOP

Mr. Chairman, I appreciate the presence of Secretary Brown and the many representatives of our veterans' organizations to testify on the President's Budget for Department of Veterans Affairs.

I share the enthusiasm of Secretary Brown for the fairness of this Budget Proposal. It reflects the high priority that our Nation's veterans deserve. Although I recognize the need for fiscal responsibility, we must keep the promise that has been made to our veterans.

I am concerned with the VA's proposed downsizing, causing the loss of 10,000 jobs.

I understand the VA budget calls for an overall increase of nearly \$1 billion. My concerns center around the Department's plan for the "new VA" splitting the VA hospital system into 22 regions. Many of our veterans will be adversely affected if the transformation is not done properly. Our veterans deserve the highest priority with adequate health care being the number one concern.

We have been trusted with managing the mandate to care for our veterans in return for their services rendered to this grateful Nation. We must be aware of our responsibility to maintain a system that best meets the changing needs for today's veterans.

We must not tolerate a stagnant system that leads to inefficiency and waste. Instead, we must work together to constantly seek new ways to mold Department of Veterans' Affairs serves the changing needs of our veterans.

Mr. Secretary, I thank you for your leadership in respect to this hearing and the review of the 1997 Veterans' Administration budget proposal.

PREPARED STATEMENT HON. JON D. FOX

Mr. Chairman, thank you for your leadership in holding this hearing. I would like to express my appreciation to Secretary Brown and his Staff, Dr. Kizer, Secretary Vogel, Mr. Catlett, Chief Judge Nebeker and his staff, as well as Mr. Magill, Mr.

Mank, Mr. Surratt, Mr. Carbonneau, Mr. Vitikacs, and Mr. Warfield, for appearing before us this morning.

I have reviewed the administration's budget proposal, and the written testimony submitted by secretary brown, and Chief Judge Nebeker. I have also read the statements prepared by the *Independent Budget* committee and other veterans' service organizations.

I am encouraged by the strong proposal submitted by the committee, and I look forward to having a productive dialogue about the veterans affairs fiscal year 1997 budget. As a member of the Subcommittee on Hospitals and Health Care, I am especially eager to work under Chairman Hutchinson's leadership to ensure that we properly address the health care needs of our Nation's veterans and that we adequately fund the Veterans Health Administration. In addition, we must exercise our oversight responsibility to monitor the reorganization of service delivery and we must enact meaningful eligibility reform as soon as possible.

In addition, as a strong advocate for the veterans pro bono representation program, I am eager to discuss our initiatives to maintain and improve this outstanding service with Chief Judge Nebeker.

Thank you.

PREPARED STATEMENT OF HON. JERRY WELLER

To understand the sacrifices of this Nation's veterans, we need only look at the more than 1 million of America's finest citizen soldiers who have died defending the personal and economic freedoms enjoyed throughout this country and most of the world, or recognize the more than 1½ million American's who have returned home with service-related disabilities.

Likewise, I think we all agree that we would not be sitting here today in this great legislative body, working toward a better tomorrow for all Americans, without the sacrifices all veterans have made. For that very reason, I am pleased to be here today to let it be known that we have not forgotten. One of the most important aspects of this Nation's obligation to our veterans is to provide adequate health care.

I am proud to say the House has increased the Veterans Health Administration funding from \$16.5 billion to almost \$17 billion, \$500 million more than last year. While we are committed to balancing the budget, we also realize our commitment to our veterans and we plan to honor it. Even while we are eliminating the size of the federal budget deficit by \$180 billion we're still maintaining VA funding at current levels and increasing the VA Health Administration by \$500 million.

Along these lines, I am glad that Secretary Brown is here with us today to discuss the fiscal year 1997 budget for the Department of Veterans Affairs. I look forward to hearing his statement and I am hopeful that he will go along way to answer a few questions that I have regarding veterans' health care in rural areas.

As I am sure the Secretary understands, one of the great concerns of an aging American veterans population is a means of meeting the growing need for affordable and readily available health care services. I am not speaking necessarily about serious illnesses that absolutely require hospitalization, but rather about the relatively minor ailments and problems which now days can usually be treated effectively on an outpatient basis.

Unfortunately, there are hundreds of thousands of veterans who live in small towns and rural communities many miles away from the nearest VA hospital or other health care facility. In order for these veterans to take advantage of the health care benefits they have earned through service to our Nation, they are instead forced to make long and expensive trips to larger communities.

LaSalle County in Illinois' 11th Congressional District, which I have the privilege of representing, is home to thousands of veterans. Yet only a tiny fraction of these veterans ever use the VA's health care services because veterans, especially in the LaSalle, Peru and Streator areas of LaSalle County must travel more than 60 miles to get to a VA health care facility.

For example, the 1995 Annual Report of the LaSalle County Veterans Assistance Commission (VAC) states that from 1994 through December 1995, the VAC in this rural county transported more than 700 low income veterans to Veterans Administration health care facilities. Accordingly, the LaSalle County VAC spent \$30,000 in transportation fees alone in 1995, and has estimated that they will spend over \$50,000 in 1996.

Clearly, these veterans are not being sufficiently served—surely this is a scenario which is being repeated in many parts of the country. Mr. Secretary, I look forward to hearing the VA's strategy for addressing this growing need.

**STATEMENT OF THE HONORABLE JESSE BROWN
SECRETARY FOR VETERANS AFFAIRS**

**FOR PRESENTATION BEFORE THE
HOUSE COMMITTEE ON VETERANS' AFFAIRS**

MARCH 29, 1996

Mr. Chairman, members of the committee, I am pleased to present the President's 1997 Budget proposal for the Department of Veterans Affairs. In securing \$39.3 billion and 217,747 FTE for veterans programs, we acknowledge our commitment to our nation's veterans to provide quality care and services while recognizing the genuine fiscal restraints.

The 1997 outlook for the Department will be to focus our attention on the following four areas:

- 1) Better service to veterans -- outpatient and primary care, improved timeliness, providing more access and better personal contact.
- 2) Our workload -- maintain the same level in medical care, meet benefits processing demands and meet cemetery growth.
- 3) New revenues for health care -- through retention of third party recoveries which exceed a pre-defined goal.
- 4) Streamlining -- increase the pace through restructuring both in headquarters and field organizations.

Reengineering the Organizational Structure

As you know, VA is currently restructuring its health care delivery system. This past Fall, VA implemented 22 Veterans Integrated Service Networks (VISNs) which will allow VA to decentralize, providing greater resources at the point of patient contact -- where health care is provided. The VISNs will consolidate duplicative administrative and health care services within local networks and optimize services to veterans in a cost effective manner. Our goal is to have all Primary Care programs in place throughout the system. This type of care will ensure continuity of care and improved communications between the veteran patient and health care provider. Staffing will decrease as we seek to partner with the community in offering more accessible services to veterans.

The FY 1997 budget reflects the first phase of a multi-year restructuring plan for Veterans Benefits Administration that will improve service to veterans and reduce overall costs of operation in the future. The first phase includes ten initiatives that will be implemented beginning FY 1997 and save over \$60 million and reduce FTE by 450 by 2002. These initiatives are designed to centralize and consolidate various activities in order to provide better service at reduced costs.

Gainsharing

As part of this request, we are proposing a significant legislative change -- Gainsharing. This proposal will allow the medical system to retain a portion of third party recoveries above a defined collection goal. This will increase the Department's incentive to collect from third party insurers. Any additional collections above the goal will be shared by VA and Treasury. Specifically, once the goal is exceeded, VA would keep 25 percent of collections for Category A veterans and 100 percent for category C

veterans. VA's share of these funds will be used to improve the quality of health care for veterans and the remaining funds will increase receipts to the Treasury. Thus legislation will improve care for veterans while helping to reduce the deficit.

Modality of Care

VA is still hampered by the existing law that governs eligibility for care and a specific setting for the delivery of health care. We will urge Congress to act upon this essential issue so that veterans can be cared for in the most appropriate setting for their medical condition.

Benefits Delivery

We continue to decrease the time it takes to process veteran benefits claims and to improve the quality of rating and other actions. In FY 1997 we will process original compensation claims in 117 days, 33 days faster than FY 1996. We are right on schedule to meet our performance goal of processing original compensation claims in 106 days by FY 1998. Reengineering, training, restructuring, and enhanced technology initiatives will increase service to veterans and contribute to reduced costs of operation.

Reinvention Effort

Reinvention efforts that benefit the veterans are exemplified by VA's Franchise Fund. Chosen in FY 1996 as a pilot program under the Government Management Reform Act of 1994 (P.L. 103-356), the Franchise Fund is expected to produce significant savings for common administrative services that will allow the current levels of high quality service to be maintained at the same or lower cost. Additionally, under franchise, VA will market services to other federal agencies allowing costs to be spread over a larger unit base, thereby lowering unit costs to government, and the taxpayer, in general. These savings benefit veterans directly, by allowing tight resources to be applied directly to veterans' program areas.

Performance Based Budgeting

VA has made significant progress during the last year in developing and using performance measures to assess how well we are doing in meeting our program goals and objectives. Through our involvement in pilot projects under the Government Performance and Results Act, we continue to move closer to our ultimate objective of having a single set of performance measures that are used throughout the program planning, budget formulation, budget execution, and accountability processes. Future budget submissions will reflect our increasing emphasis on both developing meaningful measures of performance and using this information to make more informed budget and management decisions.

I will now briefly summarize the 1997 budget request for VA, highlighting significant budget issues for our major programs:

MEDICAL PROGRAMS

Medical Care

The 1997 medical care budget request of \$17 billion represents a \$448 million increase over the 1996 Conference level. VA is also requesting 191,000 FTE, a reduction of 5,154 from the 1996 level. With these resources VA will care for 2.6 million eligible veterans in 1997 – 2.9 million unique patients – the same number of veterans cared for in 1996. This funding will result in almost 948,000 inpatient episodes – 604,000 acute

care, 18,000 rehabilitation, 188,000 psychiatric care, 137,000 long-term care, 2.9 million community based care visits, and 29.8 million outpatient visits.

Contained in the 1997 President's Budget request is an FY 1996 add-on of \$213 million. This add-on will provide fund essential medical equipment and other medical care supplies.

Medical and Prosthetic Research

A total of \$257 million and 3,485 FTE is requested to support VA's medical and prosthetic research program. The funds requested will continue to provide for high-priority research projects that not only enhance the quality of veterans' health care but that of the entire population. With the resources provided in 1997, VA research will continue to address critical areas such as outcome measures, nursing research, occupational and environmental hazards, and diabetes. Funding will support approximately 1,600 projects.

Medical Administration and Miscellaneous Operating Expenses

The headquarters office has been streamlined and reduced 25 percent in 1996 from the staffing level authorized for 1995. These employment reductions were integrated with the previously planned headquarters restructuring. The Medical Administration and Miscellaneous Operating Expenses request of \$62 million support a 600 FTE level in 1997 plus a transfer of 10 FTE from the Department's Information Resource Management (IRM) Office to establish an Agency Chief Information Office.

Medical Care Cost Recovery

A total of \$119.1 million and 2,295 FTE is requested to collect over \$729 million from third parties, copayments, and receipts. Collections are estimated to increase by \$87 million over the 1996 level.

In addition to the gainsharing proposal outlined earlier, the Administration has proposed legislation to eliminate sunset provisions which were enacted or extended as part of OBRA '93 and are due to expire in 1998: (1) recover costs from health insurers for treatment of non-service-connected disabilities of service-connected veterans; (2) certain income verification authority, and (3) recover copayments for outpatient medication and nursing home and hospital care. Combined savings through FY 2006 for these three provisions are estimated to equal \$2.9 billion.

Major Construction

A funding level of \$249.9 million is requested for the Major Construction program. The Major Construction request emphasizes ambulatory care, patient privacy/environmental improvements, and increased access to VA health care for thousands of veterans. Funds are included for a new hospital and nursing home at Brevard County, Florida, and a replacement hospital at Travis Air Force Base in California. The Travis facility will replace the Martinez hospital which was closed due to unacceptable seismic risk. In addition, funds are requested for construction of a new outpatient clinic and renovation of related support space at the Tripler Army Medical Center in Honolulu, Hawaii. Outpatient improvements will also be funded at Wilkes-Barre, Pennsylvania. Patient environmental deficiencies will be corrected at VA hospitals in Marion, Indiana; Salisbury, North Carolina; and Pittsburgh (UD), Pennsylvania.

VA is requesting funding to establish new cemeteries in Chicago (Joliet), Illinois and Dallas/Ft. Worth, Texas.

Additional funds are requested to remove asbestos from Department-owned buildings, to pay VA's share of the costs related to the cleanup of hazardous waste, to reimburse the Judgment Fund for the payment of claims and settlements, and to support advanced planning and design activities.

The budget request contains an FY 1996 supplemental add-on of \$62 million for major construction. This proposed add-on would provide an additional \$36 million for the first phase of a medical center in Brevard County, Florida and \$26 million for the first phase of a medical center at Travis AFB in California.

Minor Construction

A total of \$189.2 million is requested for the FY 1997 Minor Construction program. The request includes \$154.1 million for Veterans Health Administration projects. Of this amount, \$34.8 million is targeted for outpatient improvements that will enable VA to continue its commitment to provide primary and preventive care. Additionally, \$44.1 million will be earmarked to improve the patient care environment. A total of \$18.1 million is also included for the National Cemetery System, with \$8.1 million devoted to development of additional gravesites at the National Memorial Cemetery of Arizona. Funds in the amount of \$11.5 million is requested for the Veterans Benefits Administration. Staff Office and Emergency projects are provided \$5.5 million.

Legislation is being proposed to increase the limit on minor construction projects from \$3 million to \$10 million.

Non-Recurring Maintenance and Repair

A total of \$236 million is requested for the Non-Recurring Maintenance and Repair (NRM) program in the Medical Care appropriation. NRM resources will support replacement of additional building service equipment, minor structural improvements, and non-recurring maintenance and repair to existing structures. In addition to new requirements, funds will be applied to the backlog of routine maintenance projects such as repairing roofs, maintaining heat and ventilation and air conditioning systems, ensuring adherence to fire and safety codes, and making needed electrical and utility system repairs. Non-recurring maintenance funds will also be used to adapt systems and areas to comply with requirements to control the potential spread of tuberculosis.

Grants for the Construction of State Extended Care Facilities

The FY 1997 request of \$39.9 million for the Grants for the Construction of State Extended Care Facilities will provide funding to assist the States to establish new or renovate existing nursing homes and domiciliaries.

BENEFIT PROGRAMS

VA benefits programs provide assistance to veterans in recognition of their service to their country and the impact of that service on their quality of life. We provide compensation payments to veterans who suffered disabling injuries during military service and to survivors of those who died from service-connected causes, pension payments to needy disabled veterans and survivors, education and training

assistance to help veterans readjust to civilian life, vocational rehabilitation and counseling assistance to help disabled veterans obtain employment, credit assistance to enable veterans to purchase and retain homes, and life insurance.

I am requesting \$18.5 billion to support 1997 compensation payments to 2.2 million veterans and 303 thousand survivors, and to support pension payments to 409 thousand veterans and 322 thousand survivors. This request includes proposed legislation to revise the standard for liability for injuries resulting from VA treatment (*Gardner vs. Brown*). By precluding compensation for the "reasonably foreseeable results" of properly prescribed and administered VA health care, it is estimated that \$110.7 million will be saved in 1997 and almost \$5.2 billion will be saved through the year 2006.

Proposed in this budget is a 2.8 percent adjustment (COLA), based on the projected change in the Consumer Price Index, to be paid to compensation beneficiaries including Dependency and Indemnity (DIC) spouses and children. Proposed legislation is included which makes permanent a provision of current law that provides VA access to certain Internal Revenue Service data for determining eligibility for VA income based benefits. It also permanently limits the monthly pension benefit to \$90 for certain veterans and surviving spouses receiving Medicaid-covered nursing home care. Also proposed, is the requirement that all future cost-of-living adjustments (COLAs) for disability compensation and dependency and indemnity compensation (DIC) be rounded down to the next lowest full dollar amount.

This budget request also reflects a need for an additional \$682 million for the FY 1996 Compensation programs to fund the COLA effective December 1, 1995, and to fund increased average cost due to higher degree of disability. Because a regular 1996 appropriation had not been enacted at the time this budget was prepared, the needed increase is reflected as an amendment to be submitted to the FY 1996 budget request. If an appropriation is enacted at the original amount requested, a supplemental appropriation would be necessary to fund the additional benefit costs.

An appropriation of \$1.2 billion is requested for the Readjustment Benefits program to provide education opportunities to veterans and eligible dependents and for various special assistance programs for disabled veterans. Education benefits will be provided for over 526,000 trainees in 1997.

Legislation is proposed to overturn the Court of Veterans Appeals decision in *Davenport v. Brown*, which invalidated VA's long-standing regulations requiring that, for purposes of service-connected vocational rehabilitation eligibility, there be a substantial linkage between the veteran's service-connected disability and his or her employment handicap. This proposal will save an estimated \$20.4 million in 1997 and \$538.5 million over ten years.

In 1997, VA's Home Loan Guaranty program anticipates contracting with the private sector for most of the VA portfolio loan servicing activities. VA currently provides full mortgage services to a portfolio of about 29,000 loans in the 46 field stations with Loan Guaranty Divisions. Contracting out allows more effective servicing, at lower cost, while retaining VA control of the foreclosure process. This will ensure that no loan is foreclosed unnecessarily and that loans involving veterans' benefits are afforded special consideration. This initiative is expected to save about \$524 thousand in FY 1997, with savings of more than \$14 million through the year 2002.

Legislation is proposed which repeals certain restrictions on the collection of debts owed to the Government resulting from the foreclosure of VA housing loans. It also proposes to permanently extend VA's authority to (1) increase most housing loan fees by 0.75 percent and (2) charge a 3 percent fee for certain multi-use home loans. In addition, this budget proposes to permanently extend the resale loss provision in the formula that determines whether VA should acquire a foreclosed property or pay the default claim.

GENERAL OPERATING EXPENSES

A total of \$843.7 million is requested for the General Operating Expenses (GOE) appropriation in 1997. This funding level, combined with \$142.7 million of administrative costs associated with VA's credit programs (funded in the loan program accounts per Credit Reform provisions), \$12.2 million in reimbursements from the Compensation and Pensions account for costs associated with the implementation of the Omnibus Budget Reconciliation Act of 1990 as amended, and \$32 million from insurance funds' excess revenues, together with other reimbursable authority, will provide \$1.085 billion to support operations funded in the GOE account.

Veterans Benefits Administration

The 1997 budget request for the Veterans Benefits Administration (VBA) is \$643 million with an average employment level of 12,076. This request, combined with \$138 million associated with Credit Reform funding, will result in an increase of \$32.5 million in discretionary appropriated funding over the 1996 level. Average employment is 624 below the 1996 level due to decreases in workload and the impact of ten restructuring initiatives designed to maintain or improve service to veterans, plus reduce costs.

VBA continues to make progress in processing compensation and pension claims more quickly in 1997 and will meet all its timeliness goals by FY 1998. Veterans will get their original compensation claims processed 33 days faster in 1997 than they did in 1996. VBA's backlog of compensation and pension cases will be reduced substantially, from about 378,600 cases at the end of FY 1995, to 277,000 cases at the end of FY 1997. This is a reduction of 28 percent and represents continued reductions that have cut the pending case level to less than half what it was at its highest point (570,000) in FY 1994.

Resources are included in FY 1997 to continue development of VBA's VETSNET initiative, which will replace old computers and software currently used to pay veterans monthly compensation and pensions checks. This project, to be completed in FY 1998, will ensure veterans are paid accurately and timely in the future, using enhanced technology.

VBA proposes in this budget the first phase of a multi-year restructuring plan that will improve service to veterans and reduce overall costs of operation in the future. This first phase includes ten initiatives that will be implemented beginning in FY 1997 and will save over \$60 million by FY 2002.

Five of the initiatives will centralize various Loan Guaranty activities and provide current or better service at reduced costs. Two other initiatives will shift the processing of selected Compensation and Pensions claims to other offices which can provide more timely and accurate service for veterans at decreased costs. Another initiative proposes to consolidate remaining Education activities at the four Regional Processing Centers. Office of Information Technology resources will be realigned under another proposal which redirects some current employees devoted to supporting VBA's various information systems. Finally, the last initiative will increase veteran access to information about VBA programs and the status of their claims.

VBA's Field Restructuring Task Force is continuing to develop the details of an overall multi-year restructuring plan which will provide continued high quality service to veterans and also reduce future fiscal year cost requirements.

National Cemetery System

For FY 1997, the National Cemetery System proposes a budget of \$77 million and 1,335 FTE. This represents an increase of \$4.3 million and 14 FTE over the FY 1996 level. Included in this increase is \$800 thousand and 4 FTE for activation of the new Tahoma National Cemetery in Seattle, WA area; an additional 10 FTE to address increasing workload in existing cemeteries; and additional funding for inflation and payraises. Projections indicate that interments will rise by 2.4 percent; the number of graves to be maintained by 2.6 percent; and acres of grounds to be maintained by 3.2 percent.

General Administration

The General Administration 1997 request is \$200.7 million and 2,355 FTE. This total reflects a decrease of \$12.8 million below last year's level and a reduction of 474 FTE. These reductions are primarily the result of VA being selected as one of the government's five Franchise Fund pilots. Funding and FTE have been moved to the customer organizations who will then purchase services from the Franchise Fund provider organizations during FY 1997. General Administration sustains the pay and personnel system and the reporting systems necessary to account for much of VA's resources. Funds in this account also help provide legal services to the offices that service America's veterans and provide appeal opportunities for veterans seeking benefits. It also provides resources to administer the Contracts Disputes Act.

Board of Veterans' Appeals

The Board of Veterans Appeals (BVA) continues to address the unacceptable amount of time it takes to process an appeal. In FY 1997, BVA is requesting an additional 50 FTE for a total of 527 FTE. This increase in staff will result in a reduction of 130 days in the average response time, falling from 675 days in FY 1996 to 545 days in FY 1997.

PAY VA

PAY-VA is an initiative to replace VA's 30 year old payroll and personnel reporting system. It will improve the accuracy and integrity of data, reduce error rates and reduce time and staff needed to make future payroll and personnel changes. This budget request includes \$5.9 million for this initiative.

CLOSING

Mr. Chairman, the challenges before us are great but they do not exceed our dedication and commitment to ensuring the best possible care and service to our Nation's veterans. We owe our veterans the best we can provide. I look forward to working with you and the members of this Committee to meet these challenges. This completes my prepared statement. I will be pleased to answer any questions the Committee might have.

FOR RELEASE ON DELIVERY
Expected at 10:00 A.M. EST
March 29, 1996

STATEMENT OF
HONORABLE FRANK Q. NEBEKER
CHIEF JUDGE, UNITED STATES COURT OF VETERANS APPEALS
FOR PRESENTATION BEFORE THE
COMMITTEE ON VETERANS' AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
MARCH 29, 1996

MR. CHAIRMAN AND DISTINGUISHED MEMBERS OF THE COMMITTEE:

On behalf of the Court, I appreciate this opportunity to present for your consideration the fiscal year (FY) 1997 budget for the United States Court of Veterans Appeals.

The Court, in its FY 1997 Budget Estimate, requests \$8,795,000 for the necessary expenses of its operation. This represents a \$205,000 or 2.3 percent decrease in funding from FY 1996 funding levels.

The Court's request includes funding for 81 full-time equivalent (FTE) positions. This is a voluntary reduction of 1 FTE position from the FY 1996 authorized level. This voluntary reduction meets the FY 1997 FTE-reduction target recommended by the Office of Management and Budget (OMB) in its implementation of the National Performance Review, and is in accord with congressional efforts to reduce the federal budget. The requested FTE positions are required to maintain high-quality services to litigants seeking judicial review, many of whom come to the Court unrepresented. This budget request contains no provision for a cost-of-living increase for the Judges of the Court because no such increase is anticipated for other federal judicial officers in FY 1997. The Court's budget does include funding, in accordance with the cost-of-living percentage recommended by OMB for FY 1997, for a pay raise, based on an inflation rate of 3%, for nonjudicial staff personnel. Also, the Court's budget factors in inflationary increases in the contractual rates for Court security operations,

finance and accounting support, and actuarial services. It also includes an increased contribution to the Court's Retirement Fund based on estimates by the Court's actuary.

The Court's actual operating funds for FY 1996, appropriated through successive continuing resolutions, are set at \$9,000,000, which is nearly 10% below the FY 1996 budget request. This 10% figure is based on a reduction of \$429,000 from the Court's \$9,429,000 budget request for FY 1996 and on use by the Court of \$405,000 to fund the Pro Bono Representation Program. This represents a total reduction from the Court's FY 1996 budget request of \$834,000. As a result of this reduction, the Court has found it necessary to defer computer upgrades needed for case management. Travel has been cut by almost 90% with no funding provided for Court hearings outside of Washington, DC, and every effort is being made to keep travel and travel-related expenses to a minimum. Through negotiations with the General Services Administration (GSA), the Court has been able to reduce the FY 1997 funding it needs to pay GSA rental costs by roughly \$100,000. Training authorization has been strictly limited. In addition, the Court found it necessary to cancel its 1995 Judicial Conference, which had been scheduled to be held last October in the Washington, DC, area, for the Court's practitioners and staff attorneys, and for VA staff members. The cancellation of the Conference and other cost control efforts have resulted in savings in postage, supplies, and training costs. Savings have also been realized in the "transportation of things" category, and in the Court's reduction by one in the number of U.S. Marshals who provide Court security.

The FY 1997 request includes funds for previously deferred case-management computer upgrades. Even with this request for funding for much-needed equipment improvements, there is a net decrease of \$205,000 from FY 1996 funding levels. We also hope that future funding will allow the Court to reinstitute the Judicial Conference. Future Conferences would be held biannually

and would continue to provide attendees with an educational opportunity and a forum for discussion of matters directly affecting the administration of justice by the Court.

For FY 1997, the Court's budget does not include a request for funds for the Pro Bono Representation Program (Program). The Program provides legal assistance to financially needy veterans appearing before the Court. The Court supports the Program and, indeed, proposed its creation as a pilot project in 1992. Nevertheless, the Court has felt compelled to decline to seek funds for the Program for FY 1997 for the reasons stated in a letter I recently wrote to you, Mr. Chairman, to convey my concerns with certain provisions of S. 1131, the pending legislation that would provide permanent authorization for the Program, which has existed to date by virtue of language in appropriations acts. I have included a copy of my March 21, 1996, letter with this testimony. The provisions in S. 1131, as presently drafted, that raise concerns are those that would provide for direct funding and administration of the Program under the Court.

I will outline the problem which has arisen. A brief history of the Program may be helpful in placing the problem in perspective. The Program began as a pilot project funded out of an excess of funds appropriated to the Court in FY 1992. To ensure that our Court would be removed as far as possible from the operation of the Program and the volunteering attorneys, the Legal Services Corporation was enlisted as the secretariat and grantor of the funds. In the ensuing fiscal years, funding for the Program was included by Congress in the Court's appropriation as a discrete line item designated for transfer to the Legal Services Corporation for funding of grants to support the Program; the Court merely served as a conduit of specifically identified funds, with discretion to transfer funds up to a specified maximum dollar amount.

Until FY 1996 there was no problem, as additional funds over and above the Court's operational needs were provided for the Program (through the Court's appropriation); there was no competition between the operating funds of the Court and those used to establish and run the Program. Throughout this time Appropriations Subcommittee members expressed a desire to have the Program funded privately or by an appropriation through the Subcommittee responsible for funding the Legal Services Corporation--the administrator and grantor for the Program.

This changed in fiscal year 1996 when Congress indicated, for the first time, its intent that the Court use its own reduced operating budget to fund the Program. Instead of serving merely as a funding conduit, the Court has been placed in the dilemma of mediating between its own operations and personnel and full funding of the representation Program designed to benefit one side of the litigation before the Court. In addition to giving rise to an institutional conflict between the interests of the Court and those of the Program, this situation impinges upon the judicial independence of the Court and creates at least the appearance of partiality in individual cases in which the Program provides an attorney to appear before the Court on behalf of the appellant veteran.

The Court has followed the stated wishes of Congress, as expressed by the Chairman of the VA-HUD Appropriations Conference Committee, and continues to fund the Program directly out of the Court's FY 1996 appropriation. We are now advised by the Program that private funding is deemed not to be feasible, and that there is little chance of funding the Program through the Subcommittee with jurisdiction over the Legal Services Corporation, the Subcommittee on Commerce, Justice, State, the Judiciary and Related Agencies. Accordingly, legislation, S. 1131, has been introduced, and the authorizing Committees have been urged to take early action

on S. 1131 with the purpose of having the Program operated under the administration of the Court.

The situation is now quite different from that when the Court was merely a conduit for separate funds. Under S. 1131, it is proposed that the Court fund and manage the Program. Under the arrangement currently in effect in FY 1996, continuation of Court funding and administration would come at the Court's own expense and at significant sacrifice to its independence and to its own internal administration. Indeed, it has been suggested, and could be suggested in the future, that the Court be held accountable to the Program for the Court's administrative expenditures. Such a situation is inimical to the functioning of an independent judicial tribunal as clearly provided for in the Veterans' Judicial Review Act. In carrying out their statutory duties, the Court's judges exercise a portion of the judicial power of the United States. The judicial discipline provisions of section 372(c) of title 28 apply to the judges of the Court. See 38 U.S.C. § 7253(g). The judges of the Court file their annual financial reports with the Judicial Conference of the United States. And as judicial officers of an independent judicial tribunal, the Court's judges are bound by the *Code of Conduct for United States Judges* (*Code of Conduct*).

Under the *Code of Conduct for United States Judges*, Canon 1, "A judge should uphold the integrity and the independence of the judiciary". Given the situation described above, the Court's continued involvement in funding the Program presents a real danger of eroding the independence and integrity of the Court by creating pressure, or the appearance thereof, that the Court favor certain parties before it because of a de facto capability on the part of the party's sponsor to affect, potentially and substantially, the apportionment of the Court's operating funds. At the same time, Canons 2 and 3 of the *Code of Conduct* are implicated. Under those Canons, judges must avoid impropriety or its appearance and must perform duties impartially. We do not see how public confidence in

the independence and impartiality of the Court can be maintained when the Court is called upon to compromise its overall operations to fund a Program benefitting one side of some appeals.

We offer two possible solutions. The first would be to amend S. 1131 to authorize appropriation of funds for the Program directly to the Legal Services Corporation. Alternatively, S. 1131 could be amended to authorize appropriations to include funds for the Program through the Department of Veterans Affairs. Either entity has the capability and experience necessary to administer grants properly.

We believe that implementation of either of these suggestions would solve the ethical problems that have developed since the creation of the Program. Thereby, this valuable Program could continue to perform a most beneficial service to appellants with appeals before the Court. At the same time, the Program could continue to help the Court and benefit the entire veteran population by ensuring that VA benefits administration is consistent with the rule of law.

Finally, the Court will ask the Appropriations Committee that the Court be exempted, as it has been in past years, from the restrictions of section 509 of the Administration's proposed appropriations bill for FY 1997. The language incorporated in section 509 of Public Law No. 103-327 (1994) precludes agencies from using, for other object classifications, funds provided for personnel compensation and benefits. Should this restriction be included in the 1997 Appropriations Act, the Court will seek continuation of the exemption it has received in all prior fiscal years. All other United States courts in the federal system have been exempted from such funding restrictions, and our Court's relatively small staff and budget warrant a continued exemption to ensure that resources are directed most efficiently.

In conclusion, I appreciate this opportunity to outline the Court's budget request for fiscal year 1997. I request this Committee's support in the matters addressed above and hope that that support will be communicated to the Appropriations Committee and the Budget Committee. On behalf of the judges and staff, I thank you for your past support and request your continued assistance. I, or those with me, will be pleased to answer your questions.



United States Court of Veterans Appeals

Chambers of
Chief Judge Frank Q. Nebeker

March 21, 1996

625 Judiciary Avenue, N.W., Suite 900
Washington, D.C. 20004
202-501-5862

Honorable Bob Stump
Chairman
Committee on Veterans' Affairs
335 Cannon House Office Building
U. S. House of Representatives
Washington, D.C. 20515-6335

Dear Mr. Chairman:

I write on behalf of the Court to address a problem which has arisen in the context of the funding and operation of the Pro Bono Representation Program (Program). The Program provides legal assistance to financially needy veterans appearing before the Court. The Court supports the Program and, indeed, proposed its creation as a pilot project in 1992. We seek your assistance in solving this problem.

Perhaps a brief history of the Program would be helpful in placing the problem in perspective. The Program began as a pilot project funded out of an excess of funds appropriated to the Court in FY 1992. To ensure that our Court would be removed as far as possible from the operation of the Program and the volunteering attorneys, the Legal Services Corporation was enlisted as the secretariat and grantor of the funds. In the ensuing fiscal years, funding for the Program was included by Congress in the Court's appropriation as a discrete line item designated for transfer to the Legal Services Corporation (LSC) for funding of grants to support the Program; the Court merely served as a conduit of specifically identified funds, with discretion to transfer funds up to a specified maximum dollar amount.

Until FY 1996 there was no problem, as additional funds over and above the Court's operational needs were provided (through the Court's appropriation); there was no competition between the operating funds of the Court and those used to establish and run the Program. Throughout this time appropriations subcommittee members expressed a desire to have the Program funded privately or by an appropriation through the Subcommittee responsible for funding the Legal Services Corporation--the administrator and

grantor for the Program.

This changed in fiscal year 1996 when Congress indicated, for the first time, its intent that the Court fund the Program out of its own reduced operating budget. Instead of serving merely as a funding conduit, the Court has been placed in the dilemma of mediating between its own operations and personnel and full funding of the representation program designed to benefit one side of the litigation before it. In addition to giving rise to an institutional conflict between the interests of the Court and those of the Program, this situation impinges upon the judicial independence of the Court and creates at least the appearance of partiality in individual cases in which the program provides an attorney to appear before the Court on behalf of the appellant veteran.

The Court has followed the stated wishes of Congress, as expressed by the Chairman of the VA-HUD Appropriations Conference Committee, and continues to fund the Program directly out of the Court's FY 1996 appropriation. However, in order to avoid the grave problems noted above the Court has felt compelled to decline to seek funds for the Program under similar circumstances for FY 1997.

We are now advised by the Program that private funding is deemed not to be feasible, and that there is little chance of funding the Program through the Subcommittee with jurisdiction over the Legal Services Corporation, the Subcommittee on Commerce, Justice, State, the Judiciary and Related Agencies. Accordingly, the authorizing Committees have been urged to take early action on S. 1131 with the purpose of having the program operated under the administration of the Court. During the course of drafting the legislation introduced as S. 1131, the Court was given ample opportunity to make suggestions as to its language. However, because of the ethical issues which have evolved, enactment of S. 1131, in its present form, would codify the dilemma which the Court must avoid. Indeed, the problem seems to be getting worse. We have been advised that the Court might be held accountable to the Program for the Court's operating budget. Such a situation would be inimical to the functioning of an independent judicial tribunal as clearly provided for in the Veterans' Judicial Review Act.

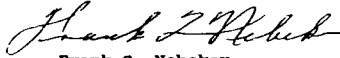
As judicial officers, the Court's judges are bound by the *Code of Conduct for United States Judges*. Under the *Code of Conduct for United States Judges*, Canon 1, "A judge should uphold the integrity and the independence of the judiciary". Given the situation described above, the Court's continued involvement in funding the Program presents a real danger of eroding the independence and integrity of the Court by creating pressure, or the appearance thereof, that the Court favor certain parties before it because of a de facto capability on the part of the party's sponsor to affect, potentially and substantially, the

the party's sponsor to affect, potentially and substantially, the apportionment of the Court's operating funds. At the same time, Canons 2 and 3 of the Code of Conduct are implicated. Under those Canons judges must avoid impropriety or its appearance and must perform duties impartially. We do not see how public confidence in the independence and impartiality of the Court can be maintained when the Court is called upon to compromise its overall operations to fund a program benefitting one side of some appeals.

We offer two possible solutions. The first would be to amend S. 1131 to authorize appropriation of funds for the Program directly to the Legal Services Corporation. Alternatively, S. 1131 could be amended to authorize appropriations to include funds for the Program through the Department of Veterans Affairs. Either entity has the capability and experience necessary to administer grants properly.

We believe that implementation of either of these suggestions would solve the ethical problems that have developed since the creation of the Program. Thereby, this valuable Program could continue to perform a most beneficial service to appellants with appeals before the Court. At the same time, the Program could continue to help the Court and benefit the entire veterans population by ensuring that VA benefits administration is consistent with the rule of law. I would welcome an opportunity to discuss this matter with you or your staff.

Sincerely,



Frank Q. Nebeker
Chief Judge

cc: Honorable Alan K. Simpson
Honorable John D. Rockefeller, IV
Honorable Christopher S. Bond
Honorable Barbara A. Mikulski
Honorable G.V. (Sonny) Montgomery
Honorable Jerry Lewis
Honorable Louis Stokes
David B. Isbell, Esq.
Chair, Advisory Committee
Veterans Consortium Pro Bono Program

STATEMENT OF
 RUSSELL W. MANK
 NATIONAL LEGISLATIVE DIRECTOR
 PARALYZED VETERANS OF AMERICA
 BEFORE THE
 HOUSE COMMITTEE ON VETERANS' AFFAIRS
 CONCERNING
 FY 1997 FUNDING FOR
 DEPARTMENT OF VETERANS AFFAIRS' PROGRAMS
 MARCH 29, 1996

Thank you for inviting us to testify before the Committee regarding the fiscal requirements of the Department of Veterans Affairs for FY 1997. This will be the tenth year AMVETS, Disabled American Veterans, Paralyzed Veterans of America, and Veterans of Foreign Wars of the United States have developed the *Independent Budget*. Paralyzed Veterans of America develops the Medical Programs section of the document and will be addressing it today. This is the time when the *Independent Budget* co-authors usually bring you our recommended appropriations for Department of Veterans Affairs' programs. Unfortunately, we are not able to do that today, but we will certainly present these recommendations to you as soon as they are available.

First, we would like to briefly discuss your own "Views and Estimates for the Fiscal Year 1997 Budget" as well as the Administration's proposal. Your total budget recommendation is considerably more than the Administration's request, even considering the additional inclusion of supplemental funding for the Benefits account in the Committee's baseline. We hope that the rest of your colleagues will be as thoughtful in responding to veterans' needs. Your proposal calls for \$60.5 million over the Administration's budget request. This may forestall some of the VA staffing cuts

planned for FY 1997 and allow the VA medical care system to adjust more adequately to the massive restructuring it is undertaking. The *Independent Budget* estimates, however, that under current law another \$54 million would be necessary to maintain a service level from FY 1996. So, the *Independent Budget* projects even the House Veterans' Affairs Committee's funding level will necessitate staffing or other programmatic cuts in the medical care system. Because we lack our own final appropriations recommendations it would be premature for us to say with certainty that the funding you recommend will be sufficient to meet the needs of veterans. Still, if VA had the legislative flexibility to use its resources appropriately, the *Independent Budget* co-authors believe that VA would be well-situated to address its programs in FY 1997. It is that flexibility that we feel S. 1563/H.R. 3119 provides.

Medical and Prosthetic Research would enjoy a \$10 million funding increase if the House's recommendation is enacted. While VA expected that the Administration's budget would cause some drop-off in research activities, the Committee's recommendation would allow VA to maintain the same level of research and possibly even slightly increase its activities. Again, while the *Independent Budget* co-authors believe that the program would flourish with a slight increase in funding (to a level of approximately \$280 million), we believe that the Committee's recommendation would accommodate current services.

We are similarly pleased with the funding recommended for General Operating Expenses. Your funding recommendation demonstrates an appreciation of the serious backlog problems the Veterans Benefits Administration faces today. The *Independent Budget* estimates that the funding the Committee recommends will be adequate to meet current services, but will not include additional staff or resources for some programs.

In lieu of the detailed explanation of our own funding recommendations we usually make, we would like to share with you and your committee some of the legislative initiatives the FY 1997 *Independent Budget* comes forward from FY 1996. As you are

aware, most of the key legislative initiatives contained in the FY 1996 *Independent Budget* are contained in a Senate bill, S 1563, introduced at our request by Chairman Alan Simpson and Ranking Minority Member Rockefeller. We just recently learned that the Ranking Minority Member of this Committee, G V "Sonny" Montgomery has followed suit by introducing the bill, H R 3119, at our request, in the House. We want to thank the Representative for this consideration and the excellent work he has done for veterans throughout his tenure. We also look forward to working with you, Mr. Chairman on the eligibility proposal you introduced, H R 3118. You may recall that last year we were supportive of your efforts with a similar bill this committee put forward, as a starting point in reforming the convoluted eligibility criteria that guides access to VA medical care today.

The FY 1997 *Independent Budget* emphasizes many of the same initiatives found in the legislation introduced at our request. PVA has testified repeatedly before this committee, in detail, on the need to eliminate VA's current "balkanized" eligibility criteria. To deliver health care efficiently, VA health professionals need a clear understanding of who VA may treat and what services they may offer their patients. The *Independent Budget* for FY 1996 laid out a very clear blueprint for fixing the problem—Category A or "mandatory" veterans should receive care in any setting providers believe is the most appropriate. It would also allow Category C veterans increased access to the health care system by allowing VA to collect and retain the costs of treating them. The *Independent Budget* proposal supports inclusion of catastrophically disabled veterans in the definition of those considered mandatory for veterans' health care. The *Independent Budget* co-authors feel this would allow veterans who face a catastrophic disability or disease a better chance to recover financially from the high out-of-pocket costs of medical care.

Virtually all veterans' advocates believe Congress should amend VA's eligibility criteria to better reflect modern medical practice. Elements of the veterans' community have differing views as to the effects of reform and, thus, consensus about reform's need has

not led to a solution. As a result, VA is forced by its own mandate to continue to provide care unevenly and inefficiently. We hope that this hearing will indicate interested parties' joint concerns. In the past we have amplified the differences in our proposals, rather than highlighting the similarities. We hope that today, Mr. Chairman, all of us can begin to work together in making real progress toward a real solution. Veterans lose in this process if we don't, and so does the American taxpayer.

S. 1563/H. R. 3119 would allow VA to provide care to veterans based on their medical need rather than their eligibility categorizations. This allows VA to practice "state of the art" medicine by employing primary care, case management, and other practices common to private sector health care delivery. It would allow VA providers to determine the least restrictive and intensive care setting capable of meeting a patient's needs. While VA has already done much to shift care from inpatient to outpatient care settings, it still has vast opportunities to shift care from hospital beds to less intensive inpatient, outpatient, and community-based settings. By using these care methods, VA will become a more efficient and cost-effective care provider.

S. 1563/H. R. 3119 would also create new funding streams for VA through the collection and retention of third-party payments including Medicare for treatment of discretionary veterans and veterans' adult dependents. Congress and the Administration have both indicated in their own versions of budget deficit reduction packages that they recognized the need for increased funding for VA. Simultaneously, VA is increasing its workload, is undergoing a massive restructuring effort, and is coping with an aging veterans' population with increasingly complex needs. VA needs to turn to new funding streams to operate its services efficiently and cost-effectively. We have offered a plan that gives VA this ability.

S. 1563/H. R. 3119 would protect VA's specialized services, such as care for veterans with spinal cord dysfunction, to ensure these services remain the hallmark of VA health care. Specialized services must continue to play a vital role in the restructured

Veterans' Integrated Service Networks Eligibility reform will allow VA and its advocates to look at new and improved ways of delivering care to these veterans whose needs cannot always be met by other health care providers

Title 38, U S Code, creates the authority for the Veterans Health Administration to treat veterans according to their special eligibility and on where they need to be treated The application of these criteria often lead to inappropriate, wasteful and even poor quality of care for veterans For example, VA may be compelled to deny an indigent veteran hypertension treatment on an outpatient basis If that veteran has a stroke the following day, however, VA is able to offer him or her inpatient treatment VA is fraught with other examples of such inefficiencies, such as VA providers admitting veterans into hospital beds in order to provide them with access to crutches or other prosthetic devices VA providers do have a loop hole to provide an individual outpatient care if the provision of those services would "obviate the need for hospitalization " However, again that provision only applies to conditions that would otherwise require hospital inpatient care, not the provision of routine outpatient, primary and preventive services

Some facilities have found that broader interpretations of the law have resulted in far more efficient provision of care One hospital in the Mid-West manages all of its patients' care and provides appropriate levels of care to different categories of veterans, including preventive care, regardless of eligibility This facility has produced significant savings while actually increasing its workload

The *Independent Budget* identifies significant savings if Congress enacted a comprehensive eligibility reform proposal allowing VA providers to decide the most appropriate level of care for their patients Let's just mention a few of the statistics to demonstrate how much less most care settings are than hospital beds In a medical bed, VA estimates this care will cost \$799/day, in a surgical bed, \$1,380/day, and in a psychiatric bed, \$361/day in FY 1996 In contrast, a staff outpatient visit (which by VA's definition includes as many "clinic stops" as the patient makes in a day), will cost, on average, \$195 Substituting a visit per day or even three visits per day of inpatient care

in all but psychiatric bed settings is a clear cost winner. Substituting nursing home care or non-institutional care for hospital care is also far cheaper.

We also believe there will be eventual savings in delivering preventive and primary care to veterans. Savings from early detection of disease and prevention of veterans prone to high risk behaviors and chronic illness could also be significant, particularly if preventive care is interpreted broadly. A number of case management services, which serve severely injured or diseased individuals, have produced savings by detecting secondary conditions early and, thus, preventing extended lengths of stay and unnecessary hospital admissions.

The General Accounting Office and others have asserted that VA could produce efficiencies without eligibility reform. We strongly disagree. Even though VA has made great progress in modernizing its care delivery, it has not yet realized many of the efficiencies that have occurred in the private sector, nor will it be able to without eventually confronting the eligibility "road block." Some high-quality private-sector plans have realized that efficient care delivery should not be bound by fee-schedules or eligibilities. They combine their funding sources to provide the best care to meet patients' needs. Often, for patients with chronic disease or illness, this requires long-term investments that may fall outside the parameters of what has traditionally been defined as "medical care" and offer holistic approaches for life care. It is against the law guiding VA eligibility for its providers to choose some services for mandatory veterans if they are not entitled to receive them, even if they will result in long-term savings for the system. VA desperately needs to be relieved of the albatross of its current eligibility criteria.

With Under Secretary Kizer's reorganization plan, the *Vision for Change*, VA is speeding down this road to achieve economies of scale, consolidations and cost accountability. The shift from inpatient to outpatient care, as GAO and other groups have noted, has already been significant. Many VA patients, regardless of eligibility, have been enrolled

with primary care providers. However, VA at times is coming to loggerheads over other issues in creating access to outpatient care, including creating points of access. We do not believe that making care accessible to veterans will result in a huge new workload for VA. We do believe that veterans already using VA will be better served by primary health providers closer to their homes.

In estimating the cost implications of a narrative description of the *Independent Budget* proposal last year, the Congressional Budget Office determined that "entitling" a new group of users to VA health care would cost billions of dollars. Most of the costs the Congressional Budget Office associated with the *Independent Budget* proposal were tied to this provision which allows VA to collect and retain third-party reimbursements and Medicare. Neither one of these proposals costs American taxpayers an extra dime, and we believe has the potential of offering real savings to the Health Care Financing Administration and VA. The Administration's budget includes important "gainsharing" legislation that your Committee has supported in the past—to allow the VA to retain a portion of third party funds beyond an established collection goal. The Administration has proposed that VA retain 25 percent of collections for Category A veterans and 100 percent for Category C veterans after a baseline level of collections are achieved. Because of scoring and costing rules, however, CBO must treat collections as "receipts" scored against the deficit. We ask you, Mr. Chairman, does this make any sense? Our proposal was meant to be a dollar reimbursement for a dollar of services rendered. We do not understand how such a proposal can possibly contribute \$10 billion to the deficit. The *Independent Budget* proposal does not, and is not intended to, create new expenditures for VA. Conversely, it is meant to defray the costs of overhead and create a new funding stream for VA while giving a new class of veterans and adult dependents access to services which local VA officials specify as having the capacity to provide them with care. Our proposal expects these individuals to pay for these services in return for access to the system. In addition, this work load would help maintain economies of scale of major benefit to the veteran patient population.

Certain proposals that have been discussed for eligibility reform would provide expanded access but do so only for a more limited category of veterans. Taking current

Category A, these proposals would apportion a certain segment of this population - a Category A Plus - as being more deserving of a well rounded health care plan. We believe this type of re-segmentation only aggravates the current systematic maze of eligibility in creating yet again another category of health care "haves" and health care "have nots." It does nothing to help VA move out of the morass it is in and become a cost-effective integrated health care delivery system.

MANAGED CARE

Most analysts share the belief that cost savings may accrue from implementing managed care, through systems much like the one we have proposed which is a version of the typical staff-model health maintenance organization. Our proposal, which would allow care providers to shift care into appropriate settings, implicitly incorporates such a system. VA already has salaried physicians and a "capped" budget - two defining characteristics of a health maintenance organization. It lacks the long-standing predisposition, prevalent in the managed care movement, for providing less intensive care in non-institutional, non medical settings and emphasizing "wellness" through primary and preventive care services. The reason for this is that current eligibility rules mandate inpatient care as the access point to the system for most veterans bypassing outpatient and other more cost-effective venues.

COST SAVINGS

Studies of groups of individuals, including elderly people, indicate that federal systems expect savings from switching from fee-for-service allocation to pre-paid managed care providers. In 1995, the Congressional Budget Office projected that the Health Care Financing Administration could save up to 20 percent by enrolling Medicare beneficiaries into closed panel HMOs. More conservative analysis of managed care proposals by CBO has projected one-time savings ranging between 7-8 percent based on the actual experience of private sector providers. The *Independent Budget* estimate of system savings from shifting care into appropriate settings fell in the latter, more conservative range. Still, we remarked on the blatant inconsistency demonstrated by CBO in its overview of the narrative *Independent Budget* proposal last year projecting enormous additional costs to the system with no offsets due to early detection of

disease or appropriate channeling of patients and resources. Management savings which would create such savings for the Medicare trust fund would also produce savings for VA.

CONCLUSION:

Mr. Chairman, PVA commends you and your Committee for the overall increase you propose to provide the VA for medical care and medical research. Your increase would enable the VA to maintain a semblance of quality health care in fiscal year 1997. The proposal we have before you in S. 1563/H. R. 3119 is, however, a total package containing eligibility reform, potential broad scale savings to the system, and the authority for VA to bolster its resource base by attracting and retaining payments from third party sources. Each of these three objectives is crucial to the other two. The plan falls apart if any one of these components are omitted.

Members of this committee and others have sometimes criticized the veterans' service organizations for asking for more, more, more. We realize that this hearing is about VA's resource requirements and yet this issue is inextricably tied to eligibility reform. We understand the need for austerity posed by America's debt situation and are looking for ways to fulfill VA's commitment to veterans without adding to the taxpayers' burden. The funding levels your Committee recommends will probably allow VA to "hold its own" in the next fiscal year, but adequate funding is only part of the solution. VA should absolutely have the flexibility it needs to use its resources to provide care in the most efficient manner.

This concludes my testimony, I will be happy to answer any questions you may have.

VA APPROPRIATIONS BY ACCOUNT (in thousands)

	FY 1988 CONFERENCE REPORT	FY 1987 IB CURRENT SERVICES LEVEL	FY 1987 IB RECOMMENDED APPROPRIATION	FY 1987 IB RECOMMENDED BUDGET AUTHORITY
GENERAL OPERATING EXPENSES (CODE)				
General Operating Expenses	848143	897410	917036	917036
Office of the Inspector General	30600	31741	31741	31741
National Cemetery System	72604	77357	86661	86661
TOTAL GENERAL OPERATING EXPENSES	951,947	1,006,508	1,025,438	1,025,438
BENEFITS PROGRAM				
Compensation, Pensions, and Social Benefits	1833161	18497654	18497654	18497654
Readjustment Benefits	1346300	1227000	1227000	1227000
Veterans Insurance & Indemnities	24880	39000	39000	39000
Veterans' Job Training Fund	0	0	0	0
Loan Guaranty Program Account	62138	33810	33810	33810
Guaranty and Indemnity Program Account	66228	266378	266378	266378
Direct and Other Loan Program Accounts	1105	871	871	871
Native American Veterans Housing Loan Program Account	206	434	434	434
TOTAL BENEFITS	318,670,426	120,066,346	120,066,346	120,066,346
MEDICAL PROGRAMS				
Medical Care	16580000	17327776	17811211	17817113
Medical & Prosthetic Research	257000	258180	275180	275180
Medical Admin and Miscellaneous Operating Expenses	67602	12018	63118	63118
Health Professional Educational Assistance Programs	0	10366	10366	10366
TOTAL MEDICAL PROGRAMS	16,884,602	17,454,360	18,243,365	18,189,737
CONSTRUCTION PROGRAMS				
Construction, Major Projects	138166	469800	469800	469800
Construction, Minor Projects	190000	268900	268900	268900
Parking Garage Renovation Fund	0	1500	1500	1500
Grants for Care of Ships Vex Commodore	1000	2500	2500	2500
Grants for Care of State Extended Care Facilities	67397	180000	180000	180000
Grants to the Republic of the Philippines	0	500	500	500
TOTAL CONSTRUCTION PROGRAMS	317,452	874,200	874,200	874,200
TOTAL VA PROGRAMS	938,071,228	129,460,413	140,182,806	140,182,790

**MEDICAL CARE
INDEPENDENT BUDGET
RECOMMENDED APPROPRIATION**

FY 1998 Current Services Level **\$16,560,000,000**

FY 1997

Payroll Related Increases

Retirement Programs	4,789,000
Annualization of 1996 Pay	11,026,000
Annualization of 1996 Federal Employee Health Benefit Program	3,336,000
Pay Raise 1997	32,576,000
Federal Employee Health Benefit Program 1997	8,857,000
Other Personnel Costs	3,047,000
Restoration of Funding Transferred to MAMOE Account in FY 1996	4,000,000
Inflation	147,504,000
Facility Activations (Including Capital Investments)	208,416,000
Property Rental	7,854,000
Adjustments for Rate Changes	
State Nursing Homes	89,690,000
State Home Hospitals	2,553,000
State Home Domiciliaries	10,694,000
Community Nursing Homes	18,876,000
Contract Hospitals	8,558,000

FY 1997 Current Services Level **\$17,122,776,000**

Additional Initiatives 1997

Outpatient Care	512,500,000
Nursing Home Care	94,654,000
Community Residential Care	317,900
Hospital-Based Home Care	31,589,000
Homemaker/Home Health Aide Services	770,000
Adult Day Health Care	3,815,000
Geriatric Research, Education, and Clinical Center	3,000,000
Education and Training	22,000,000
Facility Activations for Leased Clinics	100,000,000

FY 1997 RECOMMENDED APPROPRIATION **\$17,881,221,000**

Authorization for Medicare Reimbursement for Higher Income Veterans and	282,752,000
Authorization to Retain Payments from Dependents and New Veteran Users	328,693,000
Retention of Collection of Third Party Reimbursements for Current Users	5,000,000
Efficiencies Directly Attributable to Eligibility Reform	
Shift Inpatient to More Appropriate Outpatient Care	(271,921,000)
Apply New Length of Stay Standard to All VISNS	(398,632,000)

Total Budget Authority Recommended **\$17,817,113,000**

**MEDICAL AND PROSTHETIC RESEARCH
INDEPENDENT BUDGET
RECOMMENDED APPROPRIATION**

FY 1996 Current Services Level	\$257,000,000	#1
FY 1997		
Payroll Related Increases		
Retirement Programs	554,000	#2
Annualization of 1996 Pay Raise	1,017,000	#3
Annualization of 1996 Federal Employee Health Benefit Program	91,000	#4
Pay Raise 1997	3,004,000	#5
Federal Employee Health Benefit Program 1997	270,000	#6
Other Personnel Costs	247,000	#7
Inflation	(3,003,000)	#8
FY 1997 Recommended Current Services Level	\$269,100,000	#9
Special Initiatives	20,000,000	#10
FY 1997 RECOMMENDED APPROPRIATION	\$279,100,000	#11

**MEDICAL ADMINISTRATION AND MISCELLANEOUS
OPERATING EXPENSES
(MAMOE)
INDEPENDENT BUDGET RECOMMENDED APPROPRIATION**

FY 1996 Current Services Level	\$63,602,000	#1
Additional Funding Needed to Support Current FTE Level	\$5,894,000	#2
FY 1996 Current Services Level (Adjusted)	\$69,296,000	#3
FY 1997		
Payroll Related Increases		
Retirement Programs	(271,000)	#4
Annualization of 1996 Pay Raise	(1,827,000)	#5
Annualization of 1996 Federal Employee Health Benefit Program	(62,000)	#6
Pay Raise 1997	(5,692,000)	#7
Federal Employee Health Benefit Program 1997	(183,000)	#8
Inflation	857,000	#9
FY 1997 Current Services Level	\$82,018,000	#10
Additional Initiatives		
Employee Training	\$600,000	#11
Study to Investigate the Impacts of Realigning VHA Resources	\$500,000	#12
FY 1997 RECOMMENDED APPROPRIATION	\$63,118,000	#13

**CONSTRUCTION PROGRAMS
INDEPENDENT BUDGET
RECOMMENDED APPROPRIATION**

FY 1997 Major Construction

Medical Care Program		
Replacement / Modernization	155,200,000	#1
Outpatient Improvements	84,000,000	#2
Leases for Nursing Homes	12,000,000	#3
Leases for Outpatient Care Clinics	100,000,000	#4
National Cemetery	64,000,000	#5
Other	54,600,000	#6
TOTAL	\$469,800,000	#7

FY 1997 Minor Construction

Medical Care Program		
General Fund	250,000,000	#8
Nursing Home Care	1,800,000	#9
National Cemetery	18,100,000	#10
TOTAL	\$269,900,000	#11

FY 1997 Parking Garage Revolving Fund **\$1,500,000 #12**

FY 1997 Grants for State Extended Care Facilities **\$180,000,000 #13**

FY 1997 Grants for Construction of State Veterans Cemeteries **\$2,500,000 #14**

FY 1997 Grants To The Republic of the Philippines **\$500,000 #15**

TOTAL FY 1997 CONSTRUCTION PROGRAMS **\$924,200,000 #16**
RECOMMENDED APPROPRIATION

Independent Budget
Recommended Full-Time Employee Equivalents
GENERAL OPERATING EXPENSES (GOE)

	FY 1997 Independent Budget Administration/Den	FY 1996 Administration Request	Additional Staff Recommended by Independent Budget	
GENERAL ADMINISTRATION (VBA)				0,027,206,896
Veterans Services	1,882	1,882	0	
Compensation and Pension	3,827	3,827	0	
Education Assistance	831	831	0	
Loan Guaranty	1,835	1,835	0	
Insurance	435	435	0	
Vocational Rehabilitation and Counseling	689	689	0	
Information Technology	921	921	0	
Management Direction and Support Services	2,482	2,482	0	
Total VBA	13,032	13,032	0	
General Administration (GA)				
Office of the Secretary	45	45	0	
Board of Contract Appeals	12	12	0	
Board of Veterans Appeals	527	477	50	\$64,181
General Counsel	702	645	57	\$59,843
Assistant Secretary for Management	1,187	1,167	0	
Assistant Secretary for Human Resources and Admin	388	388	0	
Assistant Secretary for Policy and Planning	64	64	0	
Assistant Secretary for Acquisitions and Facilities	30	30	0	
Assistant Secretary for Congressional Affairs	34	34	0	
Assistant Secretary for Public and Intergovernmental Affairs	64	64	0	
Total GA	3,011	2,904	107	
General Operating Expenses (GOE)	16,843	15,838	107	
National Cemetery System (NCS)	1,366	1,340	16	\$40,237
Office of Inspector General	288	288	0	
Office of Supervision and Material Management- Supply Team	419	419	0	
TOTAL GENERAL OPERATING EXPENSES (GOE)	18,216	18,094	122	

GENERAL OPERATING EXPENSES (0405)

	FY 1988 Admin Budget	FY 1986 Conference Budget	Independent Budget FY 1987 Current Services Reappropriations	Independent Budget FY 1987 Reappropriated Appropriations	President's FY 1987 Budget Request
Western Baseline Administration (0404)					
Western Policies	1,00	60,216,000	62,267,000	62,267,000	0
Cooperation and Funding	62,752,000	164,523,000	163,864,000	163,864,000	226,279,000
Education Activities	191,346,000	38,167,000	36,114,000	36,114,000	55,256,000
Loan Guaranty	87,654,000	79,550,000	81,714,000	82,714,000	127,263,000
Insurance	18,166,000	16,396,000	16,646,000	16,646,000	26,889,000
Nonprofit Subsidies and Counseling	46,263,000	20,886,000	40,167,000	40,167,000	46,166,000
Information Technology	126,161,000	111,466,000	114,526,000	114,526,000	16,060,000
Management Director and Support Services	260,101,000	260,027,000	275,219,000	275,219,000	226,660,000
Subcommittees	114,527,000	116,571,000	116,796,000	116,796,000	116,672,000
Geographical Relations toward Engineering	28,506,000	28,500,000			0
Independent Budget Subdivisions					
Information Resources Management		165,452,000	167,260,000	167,260,000	164,209,000
Subtotal TBA	1694,111,000			11,000,000	
General Administration (040)					
Office of the Secretary	3,312,000	3,250,000	3,881,000	3,881,000	3,884,000
Board of Directors	1,111,000	1,866,000	1,251,000	1,251,000	1,177,000
Board of Women Agents	23,066,000	23,885,000	23,886,000	23,176,000	37,379,000
General Counsel	44,616,000	41,676,000	42,666,000	46,023,000	41,568,000
Assistant Secretary for Management	134,586,000	126,797,000	140,919,000	140,919,000	106,265,000
Assistant Secretary for Human Resources and Admin.	62,686,000	52,252,000	54,252,000	54,252,000	48,077,000
Assistant Secretary for Policy and Planning	5,874,000	5,771,000	5,926,000	5,926,000	5,720,000
Assistant Secretary for Acquisition and Facilities	3,824,000	0	0	0	0
Assistant Secretary for Congressional Affairs	2,482,000	2,381,000	2,466,000	2,466,000	2,276,000
Assistant Secretary for Public and Intergovernmental Affairs	6,897,000	5,760,000	5,666,000	5,396,000	5,396,000
Subcommittees	165,516,000	166,940,000	175,526,000	174,023,000	164,097,000
Total GA	1221,522,000	1213,511,000	1216,320,000	1225,946,000	1260,862,000
General Operating Expenses (0406)					
Subtotal (Computer Systems (0407)	8816,841,000	6646,110,000	6637,410,000	6917,816,000	6643,721,000
Independent Budget Subdivisions					
Automated Manual Application System					
Equipment					
Total OCS	876,336,000	672,404,000	677,210,000	691,667,000	674,844,000
Office of Inspector General	614,662,000	639,596,000	611,761,000		661,176,000
TOTAL GENERAL OPERATING EXPENSES (0405)	11,025,604,000	8951,647,000	11,008,606,000	11,029,426,000	8951,776,000
Office of Acquisition and Material Management Supply Fund	6664,346,000	1466,296,000	6767,126,000		6764,426,000

**STATEMENT OF
RICK SURRATT
ASSISTANT NATIONAL LEGISLATIVE DIRECTOR
OF THE
DISABLED AMERICAN VETERANS
BEFORE THE
HOUSE COMMITTEE ON VETERANS AFFAIRS
MARCH 29, 1996**

Mr. Chairman and Members of the Committee:

On behalf of the more than one million members of the Disabled American Veterans (DAV) and its Women's Auxiliary, I am pleased to present DAV's views on the President's fiscal year (F Y) 1997 budget request for the Department of Veterans Affairs (VA).

As you know, the combined views of DAV, AMVETS, PVA, and VFW are provided in the *Independent Budget (IB)* we publish each year.

The co-authors of the *IB* appreciate the recognition our views have received from this Committee in the past. We hope our analyses of VA's funding needs will be helpful to you. We believe our recommendations more accurately reflect the resources necessary to enable VA to provide an acceptable level of benefits and services for our Nation's 26 million veterans and their dependents and survivors.

Because DAV has primary responsibility for the "Benefit Programs" and "General Operating Expenses" (GOE) sections of the *IB*, our testimony will primarily focus on these two areas.

THE PRESIDENT'S BUDGET

Of the \$39.3 billion budget authority the Administration requests for VA, \$20 billion is for benefit programs. Included in the budget is a proposal to provide a cost-of-living adjustment (COLA), estimated at 2.8 percent, for compensation and Dependency and Indemnity Compensation (DIC).

The Administration's budget proposes several legislative changes to achieve cost-savings in benefit programs:

- Round down the COLA for all compensation benefits through FY 2002.
- Permanently round down the COLA for survivors receiving a higher rate of DIC under the prior program than recipients under the current flat rate.
- Permanently limit the monthly rate pension to \$90 for beneficiaries in Medicaid-funded nursing home care.
- Permanently authorize VA to match pensioners' reported income with their Internal Revenue Service (IRS) and Social Security Administration (SSA) income records to identify unreported income and consequent overpayments of pension.
- Amend 38 U.S.C. § 1151 to limit payment of compensation for disabilities or death related to VA medical care to instances of fault or occurrence of events not reasonably foreseeable.
- Amend chapter 31 of title 38 United States Code to remove eligibility for vocational rehabilitation in cases where the employment handicap is not due to service-connected disability.
- Make permanent the current 0.75 percent increase in the fee collected from veterans on no-downpayment VA guaranteed loans.
- Make permanent the current provision allowing inclusion of the expected resale loss in the net value calculation for home loans.
- Make permanent the current authority to charge a 3 percent fee for multiple-use home loans with less than 5 percent downpayment.

- Repeal the restriction in current law that prohibits, in cases non-judicial foreclosure, collection of loan guaranty debts from Federal salaries and Federal income tax refunds.

Under the Administration's budget, the Veterans Benefits Administration (VBA) would lose 624 FTE from the FY 1996 level, reducing the total from 12,700 to 12,076. In General Administration, there would be an FTE reduction of 472, to 2,355 from 2,827.

The reduction in VBA's FTE is attributed to "decreases in workload and the impact of 10 restructuring initiatives designed to improve service to veterans and reduce the overall costs of operation in the future." These initiatives are designed to centralize and consolidate various activities to more effectively and efficiently use existing resources. The reduction in FTE for General Administration is a result of streamlining initiatives.

VBA projects that it will continue its trend of improving its claims processing timeliness and reducing its case backlog in FY 1997. VBA hopes to reduce its caseload from 385,000 cases at the end of FY 1995 to 277,000 cases at the end of FY 1997.

The Board of Veterans' Appeals (BVA) would receive 5 additional Board members and 45 additional attorney advisors, raising BVA staffing to 527 from 477 in FY 1996. BVA requests this additional staffing to increase its production and reduce its processing time.

The Administration's request also includes funds to continue development of VBA's computer modernization program to replace the existing outdated system with the new integrated system which will be known as the Veterans Service Network or VETSNET. This system is considered essential to VBA's ability to provide timely, efficient customer service in the modern environment.

For medical care, the Administration requests \$17.008 billion, an increase of \$448.4 million, or 2.71%, over the FY 1996 funding. Employment in the Veterans Health Administration (VHA) will decrease by 5,154 to 191,000 FTE. VA projects that it can care for the same number of veterans in FY 1997 as in FY 1996. The Administration proposes legislation to allow VA to retain a portion of third-party payments above a certain level. This money would be used to improve the quality of health care for veterans.

The Administration proposes to make permanent several cost-saving measures due to expire in 1998:

- Authority to collect a \$2.00 pharmacy copayment for certain prescriptions and a \$5.00 and \$10.00 per diem charge for certain nursing home and hospital care.
- Authority to verify income, for medical care purposes, through the IRS and SSA.
- Authority to collect from insurance companies the costs of health care provided to service-connected veterans for nonservice-connected conditions.

Total savings from cost-saving measures for VBA and VHA will be \$194.6 million in FY 1997 and \$7.377 billion over seven years.

A total of \$250 million is requested for major construction. Funds are included for a new hospital and nursing home at Brevard County, Florida, a replacement hospital at Travis Air Force Base in California, improvements at other facilities, and outpatient clinic construction or renovation at two locations. New cemeteries will be constructed at Chicago, Illinois, and Dallas/Fort Worth, Texas.

For minor construction, \$189 million is requested. This would be used for improvements in existing medical facilities and national cemeteries.

The request for the National Cemetery System is \$76,864,000, an increase of \$4,260,000. Fourteen additional FTE are requested.

The DAV appreciates Secretary Brown's continuing advocacy for veterans as seen here in his efforts to obtain a budget that will allow VA to continue to meet its obligations to this Nation's veterans. The DAV appreciates the Administration's proposal to provide a COLA for compensation and DIC. This COLA will offset against the increase in the cost of living incurred by disabled veterans and DIC recipients whose buying power would otherwise be diminished.

The DAV opposes the Administration's proposal to *permanently* round down COLAs for certain DIC recipients. With the Congress and the Administration working to achieve a balanced budget within 7 years, with a declining veterans' population, and with fiscal uncertainties about the future, making these measures permanent now is premature and unwarranted. While VA projects that services will not suffer with the recommended staffing reductions in VBA and VHA, the depth of these cuts cause us concern that VA may be overly optimistic, especially considering the already existing strains on the system.

COMMITTEE RECOMMENDATIONS

The DAV also appreciates this Committee's recommendations in your Views and Estimates submitted to the Budget Committee for FY 1997.

This Committee recommended:

- A compensation and DIC COLA.
- A \$21 million increase in GOE.
- Continued computer modernization to improve benefits delivery.
- No reduction in VBA's FTE, below that accomplished through restructuring and modernization, to ensure VBA has the capacity to deliver timely and quality benefits and services.
- Increase BVA's FTE.
- Additional funding to increase Vocational Rehabilitation and Counseling Service's FTE by 86, to a total of 800.
- Increased FTE for Education Service.
- Increased funding and FTE for the National Cemetery Service (NCS).
- Additional major and minor construction funds to allow NCS to remain on schedule for opening 4 new cemeteries by the year 2000 and to permit it to meet its minor construction needs.
- Continuation of funding for the State Veterans' Cemetery Grant Program sufficient to satisfy all requests for Federal funding in FY 1997.
- Continued funding for administering the *pro bono* representation program at the United States Court of Veterans Appeals.
- Funding sufficient to allow VHA to continue its shift toward less costly, more efficient ambulatory care while maintaining quality care.
- A \$500 million increase in medical funding to enable VA to make needed changes to ensure the current and future integrity of the VA health care system.
- Eligibility reform legislation for VA health care.
- An additional \$10 million for medical research.
- An additional \$5 million for the per diem grant program for homeless veterans.
- A raise in the limit for minor construction from \$3 million to \$5 million.
- \$200 million for minor construction.
- \$300 million for major construction.
- \$50 million for state veterans' home construction grants.

This Committee's continuing advocacy for America's veterans is clearly revealed in the Views and Estimates report. Again, the DAV sincerely appreciates your efforts on behalf of veterans.

INDEPENDENT BUDGET RECOMMENDATIONS

In the Benefit Programs section, the *IB* presents some of the authors' priority legislative goals for benefit improvements. Also included is our argument against proposals to means test, eliminate, offset, tax, reduce, and restrict eligibility for disability compensation.

In the General Operating Expenses section, the *IB* authors have again urged that Congress provide VA with the resources necessary to timely and efficiently deliver benefits and services. However, it is emphasized that resources alone cannot correct serious problems in claims adjudication. The *IB* authors have cited data which demonstrate that, although timeliness is improving, quality is not. The lingering poor quality at the regional office level is revealed in and impacts upon the appellate process, where there are unacceptably large backlogs causing claimants to wait years for decisions on their claims. The *IB* makes recommendations for correcting the past problems leading to the mushrooming appeals backlog.

The *IB* also includes analyses of the activities, performance, and needs of each of the other component services of VBA as well as two of the functions funded under General Administration, BVA and the Office of the General Counsel (OGC). Although the Court of Veterans Appeals is not part of VA, the *IB* contains a section on its operations because of its inextricable role and impact in veterans' claims and the VA's processes.

BENEFIT PROGRAMS. In recognition of the special value of veterans' service in our armed forces for the security and defense of our Nation, our citizens take special pride in providing a comprehensive system of benefits to address the needs of veterans and their families. There is an especially strong sense of obligation to provide indemnification for disability and death resulting from military service. Our Nation's commitment to its veterans has endured periods of economic crisis and has evolved through various military conflicts to the existing system of veterans' programs.

By compensating disabled veterans by providing rehabilitation, by assisting veterans obtain an education, and by assisting veterans obtain housing, for example, the government also benefits society as a whole. Without this assistance which helps veterans make the transition into civilian life and makes them competitive with their nonveteran counterparts, more of them would, no doubt, be educationally and economically disadvantaged. Fewer of them would be self-sufficient. Consequently, more of them would depend on public assistance programs, and more might be homeless. The special status accorded veterans also contributes to our national sense of solidarity, patriotism, and pride. We are a Nation that admires and cares for those who sacrifice to preserve our way of life.

The authors of the *IB* appreciate the support veterans receive from this Committee. We are confident that you recognize the value and equities of maintaining our veterans' programs.

These very effective programs need small adjustments and improvements from time to time, however, to remove inequities and make them better serve their intended purposes. The *IB* makes the following recommendations for maintaining or improving the benefit programs:

Compensation

- Avoid any attempts to pressure VA to change the *Schedule for Rating Disabilities* for budgetary reasons
- Amend the law to authorize increased compensation on the basis of a temporary total rating for hospitalization or convalescence to be effective, for payment purposes, on the date of admission to the hospital or the date of treatment, surgery or other circumstances necessitating convalescence.
- Repeal the inequitable requirement that a veteran's military retired pay, based on longevity of service, be offset by an amount equal to his or her disability compensation.
- Enact legislation to remove the requirement that military non-disability separation, severance, or readjustment pay be offset against VA disability compensation.

- Amend the law to provide for an exception to the three-year limitation on amendment of tax returns in the case of erroneous taxation of disability severance pay or in the case of retroactive exemption of a portion of retired pay for more than three years.

Dependency and Indemnity Compensation

- Repeal the Omnibus Budget Reconciliation Act of 1990 provision limiting revived DIC eligibility to cases of annulled or voided marriages.

Pension

- Authorize a VA study to determine if the removal of the presumption of permanent and total disability for pension purposes at age 65 resulted in savings or whether costs of VA examinations and record development outweigh potential savings.

Burial Benefits

- Amend 38 U.S.C. § 2306 to reinstate former subsection (d), which had provided for reimbursement for the costs of acquiring a headstone or marker privately in lieu of furnishing a Government headstone or marker.

Special Assistance to Disabled Veterans

- Increase the automobile allowance to 80% of the average cost of a new automobile.

Vocational Rehabilitation Revolving Fund

- Provide such additional subsidy appropriation as necessary to meet all of the rehabilitation revolving fund loan applications projected for FY 1997.

Home Loans

- Enact legislation to authorize adjustable rate mortgages through VA's home loan program.

Other Improvements

- Remove the one-year limitation on payment of accrued benefits.
- Enact legislation to require correction of BVA decisions involving clear and unmistakable error.
- Exempt veterans' entitlements from the "pay-go" provisions of the Budget Enforcement Act.

GENERAL OPERATING EXPENSES. Just as veterans enjoy a special status and are highly deserving of VA benefits, they are deserving of an effective benefits delivery system to ensure that benefits are dispensed in a manner to be meaningful and fully accomplish their purposes. The GOE portion of the budget covers the administrative costs of delivering VA benefits and services. VBA is responsible for administering VA's nonmedical programs. These are compensation and pension, education, vocational rehabilitation and counseling, loan guaranty, insurance, and administrative, technological, and management support services. The *IB* includes recommendations for each of these benefit delivery services, but our greatest concern continues to be the persisting problems in claims adjudication.

The large claims backlogs and timeliness have been VBA's biggest problem during recent years. VBA has begun to bring its pending compensation and pension caseload down. Significant progress was made during FY 1995, and indications are that the improvement continues.

While VA regional offices are improving timeliness, statistics do not reveal improvement in quality of decision-making. Poor quality accounts for overload on the appeals process and also adds to regional office workload.

Of the 28,195 appeals decided by BVA in FY 1995, 19.5 percent were allowed and 47.6 percent were remanded. Thus, of the BVA dispositions, over two-thirds of the cases contained error requiring reversal or remand. BVA's allowance rate has grown steadily over the last five years, from 13.4 percent in 1990 to the 19.8 percent rate in FY 1995. For the first quarter of FY 1996, the allowance rate was 22 percent. Remand rates have risen from 22 percent in FY 1990 to the 47.6 percent in FY 1995. That rate is down slightly, to 42.7 percent in the first quarter of FY 1996.

The number of BVA decisions involving more than one remand grew from 2 percent in FY 1991 to 10 percent in FY 1994, and to 13 percent in FY 1995. In FY 1995, "Total Appellate System Processing Time" was 939 days for appeals involving no remand, 1,216 days for appeals involving one remand, and 1,589 days for appeals involving more than one remand.

Poor quality in regional office decisions impacts on BVA. At the end of FY 1990, 19,450 cases were certified and pending BVA review. At the end of FY 1995, that number had more than tripled, with 58,943 cases certified and awaiting BVA review. Another 26,811 appeals were pending in the field but not yet certified for BVA review, making the total pending BVA caseload 85,754 at the end of FY 1995. Considering that BVA disposed of only 28,195 cases in FY 1995 and that it has, in addition to the new cases it will receive in FY 1996, several years' backlog, a veteran appealing in FY 1996 can expect to wait years for a decision.

These statistics impel two troubling conclusions. As stated, regional office quality is not improving, and BVA's backlog is growing to alarming proportions. The overload occurs because, in addition to a new caseload each year, approximately three-quarters of the previously remanded cases are also returned for another BVA review or reviews. Instead of requiring one decision for the proper result, many cases require multiple decisions before the issue is eventually properly decided. Poor quality has the immediate effect of high error rates in veterans' claims, compounded by overload on the system and consequent protracted delays in obtaining remedy for error.

Studies within VA show that remands are required primarily to correct deficiencies in the record. Application of new court precedents accounted for only 2.8% of total remands, dispelling prior attempts to blame the Court for the problem.

The *IB* urges Congress to reject various recommendations to change the system to accommodate the status quo. Rather, the *IB* suggests that VBA should take real steps to improve its quality. With quality decisions, timeliness will follow.

The *IB* makes several recommendations to accomplish better quality.

- VA should properly focus its efforts to improve claims adjudication by correcting the causes for the problems at their source, regional office rating boards.
- VA should improve its quality control mechanisms.
- VA should promptly institute an aggressive new training program to instruct adjudicators on the mandatory nature of case law and in its use and applicability. This training should be complemented by a process incorporating a chain of accountability for proper and legal adjudications, with monitoring for compliance and quality control, along with studies of appellate decisions to identify problem areas. Management should take necessary steps to bring about a renewed institutional and individual adjudicator commitment to VA's fundamental guiding principles for the administration of benefits, such as broad and liberal application of the law, resolution of reasonable doubt, and award of all benefits to which entitlement may be established.
- To confront rating boards with the reality of their errors, to instruct them in proper interpretation and application of law, to provide data to measure performance and enforce accountability, and to aid in identifying areas where training is most needed,

BVA decisions should specify regional office errors accounting for the different outcome on appeal or necessitating remand.

- VA should establish performance criteria for regional office adjudicators, which include consideration of individual technical proficiency, timeliness, and work quality.

As does the Committee, the *IB* supports provision of the funding needed to continue VBA's computer modernization. We have recommended:

- \$9 million additional funding for replacement and additional personal computers.
- \$2 million additional funding for full implementation of Stage II technology.
- Adequate funds for acquisition of Stage III hardware.

For other components of VBA, the *IB* also makes recommendations for needed resources and improvements.

Vocational Rehabilitation and Counseling

- To prevent further strains on VR&C and reversal of recent gains, current FTE levels should be maintained until the effects of reorganization can be evaluated as to staffing needs, after which staffing considerations should include a plan to return to full use of in-house counseling and routine rehabilitation services because they are more cost effective than contract services.
- VBA should include VR&C's immediate and future needs in its development of automated support systems.

Loan Guaranty Service

- Congress should appropriate an additional \$2 million for purchase of computer hardware for Loan Guaranty Service.
- FTE levels for Loan Guaranty Service should not be further reduced.

Insurance Services

- Appropriate measures should be taken to address the unacceptably high "blocked call rate" in the Insurance Center.
- FTE for insurance services should be at least maintained at current levels.

General Administration is also funded under the GOE appropriation. This activity consists of the Office of the Secretary, five Assistant Secretaries, and three VA department-level staff offices. The *IB* provides recommendations for two of these staff offices, BVA and OGC.

Because of BVA's large case backlogs, the *IB* makes several recommendations aimed at increasing the Board's production and efficiency.

- Congress should increase BVA staffing levels by 50 employees.
- Congress should earmark sufficient funding for BVA training programs.
- Congress should appropriate sufficient resources to continue ADP automation and to ensure that BVA has state-of the art equipment and software.
- VA should change 38 C.F.R. § 19.5 to properly instruct that BVA is bound by VA manuals, circulars, and other directives issued by VA.
- The Board should develop a comprehensive plan detailing its strategy for increasing production to eliminate the backlog of pending cases.

We are pleased to note that both the Administration's budget and this Committee's Views and Estimates also support increased staffing for BVA.

The *IB* makes several recommendations for OGC. It is believed that circumstances and OGC's increasing work loads justify these recommendations.

- OGC should be authorized 27 additional FTE for its planned Alternative Dispute Resolution Program
- OGC should be authorized 23 additional FTE to handle the increasing number of medical malpractice claims against VA.
- The Office of Management and Budget should raise its apportionment cap on administration expenses from the Medical Cost Recovery revolving fund to fully reimburse OGC's legal services for that activity.
- The administrative expenses cap on the Loan Guaranty Revolving Fund, should be raised to allow full funding for OGC legal services in loan guaranty matters.
- Professional Staff Group VII of the Office of General Counsel should be authorized an additional 7 FTE to bring the individual attorney caseload down to more reasonable levels.
- Administrative settlement of tort claims for \$2,500 or less should be funded from the appropriation of the VA component involved in the tort action rather than the General Counsel's appropriation.

COURT OF VETERANS APPEALS. One of the problems the Court has faced since its inception is a large *pro se* docket. Approximately 80 percent of appellants before the Court are unrepresented when they file their appeals. That figure is reduced by one-half through the efforts of the *Pro Bono* program. The *IB* authors support continuation of this program. The *IB* recommends

- Legislation to codify into law the Veterans Consortium *Pro Bono* program.
- Appropriation of adequate funds to operate the program.

CONCLUSION

This concludes the DAV's testimony on the FY 1997 budget. We appreciate the opportunity to present our views on this most important matter, and we thank this committee for its continuing support of this Nation's disabled veterans.

STATEMENT OF
JAMES N. MAGILL
DIRECTOR, NATIONAL LEGISLATIVE SERVICE
VETERANS OF FOREIGN WARS OF THE UNITED STATES
BEFORE THE
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
WITH RESPECT TO

DEPARTMENT OF VETERANS AFFAIRS FY '97 BUDGET

WASHINGTON, D.C.

MARCH 29, 1996

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

Once again, the VFW is proud to be a co-author of the veterans' *Independent Budget*. As in the past, our contribution lies in the construction portion of this document. Therefore, this statement by the VFW will concentrate on VA's construction program.

Most of VA's construction activities are funded through the Major Construction appropriation, which finances projects costing \$3 million or more, or the Minor Construction appropriation, which pays for smaller projects. A third appropriation finances the Parking Garage Revolving Fund. Veterans Health Administration (VHA) construction accounts for most expenditures within all three appropriations. VA also provides Grants for Constructing State Extended-Care Facilities and State Veterans' Cemeteries.

The *Independent Budget* veterans' service organizations (IBVSOs) are aware that the formation of VA's Veterans Integrated Service Network (VISN) comes at a time when Congress may not appropriate new dollars for major construction and will minimize appropriations for minor construction. As VA implements VISNs with these limited funds, it risks shortages in service capacity. VA officials, particularly network directors, should have maximum flexibility to use construction funds to ensure veterans' optimal access to a full range of services.

VA urgently needs a strategic plan for its health care delivery system, one that corresponds to state and private-sector reforms. Perhaps the most difficult problem VA faces in its construction activities is coordinating facility mission and program planning. VHA is retooling the facility development program (FDP) to work within a network environment. Once it understands each facility's program strengths, VA should be able to examine a network area's demand and assess how well the area's facilities meet this demand. This will enable VA to begin to capitalize on intra-network sharing opportunities and allocate resources to the Department's and its patients' advantage. FDP has yet to incorporate inter- or intra-network utilization patterns or other sharing opportunities into its construction planning. When determining catchment area service needs, VA models must consider the strengths and weaknesses of other community health service providers and work with them to coordinate services to meet veteran demand most efficiently.

The IBVSOs believe that VA must shift its construction program emphasis from "bricks and mortar" construction to expanding primary care access, making facilities more modern and attractive, and increasing long-term care capacity in non-institutional and institutional settings. The need for enhanced outpatient and extended-care facilities and intra-structure improvements far outweighs the need for additional hospital beds. Unfortunately, construction funds will not be available for outpatient care, infrastructure improvements, and other needs until fiscal year 1998, because VA has committed its limited construction funds to building or replacing hospitals. Many renovation projects are threatened, because costs will exceed the Minor Construction project ceiling of \$3 million. However, raising the limitation on cost for Minor Construction projects to a level that keeps pace with inflation would enhance network directors' ability to adjust to changes in the new health care environment.

Prompt expansion of VA's ambulatory care program is crucial if VA is to be an effective care provider. VHA must move as much of its inpatient workload to ambulatory care settings as is appropriate. The 357 outpatient clinics currently operating cannot ensure that all veterans have accessible care. VHA must open more clinics in areas convenient to veterans, and it must begin extensive primary care outreach through more remote and satellite clinics during this fiscal year and

in FY 1998. It should place some primary care clinics contiguous to or within veterans' outreach centers (or vet centers). Leasing authority is essential if VHA is to reconfigure its delivery system expeditiously.

VA can expand access to primary and preventive care by leasing, through sharing agreements, or by contracting for these services as these are quicker, less expensive alternatives to new construction. If a veteran user population is small and far from a VA facility, VA must contract with local providers to make care accessible to those veterans at reasonable cost. VA must ensure that these providers meet or exceed VA performance standards and have information systems that can directly interface with VA's. Wherever possible VA should maintain operational control over local clinics, to maintain its identity as a provider for veteran and maximize veterans' access to providers who can best meet their special health care needs. Although the IBVSOs support creating alternative points of entry into the system, they do not support wide-scale efforts to mainstream the system.

The aging veteran population merits rapid expansion of VA long-term care alternatives. Gaps in the care continuum force many veterans into nursing homes prematurely. VA must increase access to community and home-based alternatives for long-term care. In addition, VA must begin to develop alternatives to nursing homes, such as assisted-living facilities that maximize residents' independence and are less expensive. It can develop these through enhanced-use leasing agreements with private-sector developers. There is also a need for increased institutional long-term care. Since the remodeling necessary to convert hospitals beds to nursing home care beds is less expensive than new nursing home construction, VA should convert unused inpatient hospital beds to increase nursing home bed capacity. Another less expensive alternative to new construction is to purchase and convert private-sector community hospitals vacated due to health care industry downsizing.

The Under Secretary for Health approved recommendations to improve VA performance in contract leasing. VA has developed a new leasing directive and handbook and has identified lease training as a National Training Program for fiscal year 1996.

The General Services Administration (GSA) clarified its Memorandum of Understanding, which delegates VA direct leasing authority, expanding the definition of medically related space to include any space VA may use to further its medical mission. This clarification facilitates the direct leasing of almost all Veterans Health Administration space.

The Office of Facilities Management (FM) has authorized medical facility directors to lease up to 10,000 square feet, costing up to \$300,000 (Congress must authorize anything above \$300,000), to meet outpatient clinic needs. The IBVSOs applaud such efforts. Expedited lease acquisition provides facility directors greater flexibility and control in meeting their patients' needs for accessible ambulatory care. Leasing space during initial site inspection, rather than delaying the process through formal solicitation of offers, also enable VA facility directors to respond expediently to local market conditions.

VA issues a directive that delegates to VAMC directors the authority to grant certain leases, licenses, and permits, which allow temporary non-VA use of vacant buildings and land. The directive provides directors with authority to execute leases (for up to three years) and grant licenses and permits (for up to five years) without Central Office approval. This authority enhances VAMC directors' ability to work within the communities in which they serve.

The Enhanced-Use Leasing Program is an innovative program that encourages the private sector to fund needed VA infrastructure improvements. In exchange for developing VA's under-utilized buildings or grounds, VA allows compatible non-VA activities to be conducted on VA property. This program allows VA to meet facility and service needs that it cannot accommodate within its budget priorities.

The IBVSOs strongly support permanent legislative authority for this program and eliminating the five-projects-per-year limitation. The Enhanced-Use Leasing Program is critical to rapidly achieve VA's restructuring goals.

Major Construction

Most of the *Independent Budget's* recommendation pertains to leases for outpatient clinics and nursing homes. In these uncertain times, the *Independent Budget* co-authors believe that leasing is preferable to new construction. Leasing offers an affordable, expedient, and flexible solution to VA's immediate need for outpatient and nursing home capacity. The IBVSOs are encouraged by VA facility directors' expanded leasing authority. The *Independent Budget* funding recommendation accommodates the annual cost of leasing three nursing homes and annual leasing costs for approximately 100 outpatient clinics. Funding for leased clinics complements other *Independent Budget* recommendations to enhance ambulatory care, which includes increasing its in-house capacity and offering VA care in remote community settings such as vet centers.

Replacement and modernization costs also comprise much of the Major Construction budget. The *Independent Budget* co-authors believe that VA should consider acquisition and conversion projects as alternatives to new construction. Facilities available for acquisition offer VA opportunities to realize substantial savings and activate beds more quickly than "ground-up" construction projects would. VA is, in fact, doing this in some places.

When VA acquires facilities, it needs funds to make them accessible to people with disabilities and to improve infrastructure. The IBVSOs recommend that established priorities dictate replacement and modernization projects that provide natural hazard mitigation and modernize and upgrade the physical plant. These priorities should carefully assess veterans' needs and the probable effect of changes in local health care markets on the need for facilities missions conversions.

The *Independent Budget* co-authors recommend that some new construction complement leasing and bed conversions, to increase available VA-operated beds for nursing home care. Indeed, the aging veteran population needs more nursing home beds through the 1990s. The *Independent Budget* Major Construction budget includes funding for four new nursing homes. VA must immediately enter two new enhanced-use leases for nursing home beds. This effort, however, will alleviate only some of the actual needed for nursing home beds. VA must pursue the IBVSOs' strategy for making nursing home beds available to veterans.

The *Independent Budget* Major Construction budget also recommends funding for two new VA domiciliaries. Domiciliaries offer shelter and often some social services to aging, mentally ill, and homeless veterans and those with substance abuse disorders. The growing prevalence of these problems should compel VA to provide humane care through an enhanced in-house domiciliary capacity.

Minor Construction

Most VA facilities were constructed during the 1950s, and updating and repair needs are increasing rapidly. Earlier appropriations have fallen far short of addressing these needs. Needs for repairs, beautification, installment of amenities (such as phone lines), and mission conversions should be systemwide priorities, especially if VA medical centers are to compete with private-sector providers.

Minor Construction funds must be provided to convert unused and unneeded hospital beds to nursing home care. The National Institute of Building Standards (NIBS) found that remodeling hospital beds to nursing home beds was less expensive than new construction. Accordingly, the *Independent Budget* co-authors emphasize conversion as the principal means to make nursing home care available to veterans. The IBVSOs recommend that VA convert the beds it planned for fiscal year 1996 and convert 12, 30-bed wards in fiscal year 1997. While this strategy represents a tremendous conversion rate, it is the only way VA can keep pace with the demands of the aging veteran community.

Parking Garage Revolving Fund

If VA is to compete, veterans need access to parking reasonably near medical facilities. Eventually, parking garage revenues should pay for new projects. Because few revenue-producing projects currently exist, VA needs limited new appropriations. Future funding requirements should diminish.

VA should promote private-sector construction of parking garages through the Enhanced-Use Leasing Program. Enhanced-use agreements would allow VA to provide accessible parking to its patients and their families without incurring

enormous construction costs. The IBVSOs encourage VA to investigate further utilization of this program, to build parking garages where needed.

Grants for the Construction of State Extended Care Facilities

The state home program greatly enhances VA's extended care workload capacity. This appropriation provides grants to help states acquire or construct state domiciliary and nursing homes for veterans. It also provides grants to expand, remodel, or alter existing facilities, including state home hospital facilities.

The Grants to State Extended Care Facilities benefit both the states and VA. States benefit by receiving federal money to add nursing home capacity for state residents who have dual eligibility for VA and state programs, such as Medicaid. Under these grants, states are responsible for at least 35 percent of nursing home construction costs. States pay at least 50 percent of treatment costs, which they reimburse on a per diem basis; VA also pays a portion of the per diem cost. States may also retain some of veterans' Social Security incomes to cover their shares of operating costs.

Congress should encourage and fund Grants for the Construction of State Extended Care Facilities wherever states will participate.

This concludes my testimony. I will be happy to respond to any questions you may have.

Statement of
Robert P. Carbonneau
AMVETS National Legislative Director
before the
Committee on Veterans' Affairs
of the
U.S. House of Representatives
on the
Independent Budget for the
Department of Veterans Affairs
for fiscal year 1997
Friday, March 29, 1996
Cannon House Office Building
Room 334

Mr. Chairman, AMVETS is grateful to you and the committee for allowing us the opportunity to testify today. We are proud to join with the Disabled American Veterans (DAV), the Paralyzed Veterans of America (PVA) and the Veterans of Foreign Wars (VFW) in presenting the Independent Budget (IB), for the Department of Veterans Affairs (VA), for fiscal year 1997.

The authors of the IB, have worked closely to analyze the needs of America's veterans and to determine the funding necessary for VA to meet those needs. We view it as a true picture of the realistic funding required by VA to adequately carry out the many roles and missions designed to meet the needs of America's veterans. The content of this presentation is consistent with previous editions of the IB. Each VSO has developed and will discuss a major section. DAV is responsible for general operating expenses (GOE) and benefits. PVA develops medical programs within the VA healthcare system. VFW compiles the VA construction program. AMVETS' testimony primarily addresses the National Cemetery System (NCS). But before I do so I would like to address a few other issues.

As you all know, the 104th Congress has undergone a major overhaul, with several Congressional committees either eliminated or merged. The efforts to reach a balanced budget has forced veterans' programs into competition for scarce funding with such unlikely opponents as HUD, EPA and Americorps. As taxpayers, veterans understand that programs and services must be revisited to insure that our monies are well spent and that customers are properly served. However, let's not cloud the issue. It is time to create separate appropriations committees dedicated solely to the Department of Veterans Affairs. It does not make sense to lump VA in with 20 very diverse agencies.

H.R. 3119 is our blueprint for future success of the veterans' healthcare system. We ask that you work with us on passing an eligibility reform bill. Some members cannot continue to use as excuses the Congressional Budget Office (CBO) predictions that it will cost billions. It has become quite clear that the CBO method for scoring eligibility reform is not realistic. Members need to muster the courage to take some calculated risks to help turn this system around.

In our view, Dr. Kizer is on the right track. He needs time, however, to evaluate the reorganization. But without eligibility reform, he will not accomplish the intended goal of designing a healthcare system for the next century. AMVETS' resolutions have made it clear that simply reducing the number of veterans eligible to receive healthcare is not an acceptable solution to perpetual underfunding of VA.

The aging veteran has begun to rely heavily on VA for treatment. AMVETS recognizes that the veterans' population is decreasing. In many cases, however, VA needs to retool to deliver long-term care and outpatient services. Long waits for appointments and delays to be seen in VA clinics are still common. Individual VA employee workloads have continued to mount. Stagnation of VA funding and resources is a guarantee that veterans will receive rationed care and services.

AMVETS agrees that the President's fiscal year 1997 VA medical funding falls short of what is needed to provide quality care and services. However, among those programs and services veterans count on are those administered by the National Cemetery System, and the need here for additional facilities is more the exception than the rule.

The National Cemetery System (NCS) continues to provide high-quality service despite continued underfunding. However, the system is not attracting the funding necessary to insure its long-term performance. Many of the long-term projects that are necessary to serve veterans and their families may not be completed in time to meet the demand.

The National Cemetery System administers a fourfold mission; first, to provide, upon request, for the interment in any national cemetery with available grave space the remains of eligible deceased service persons and discharged veterans (together with their spouses and certain dependents) and to permanently maintain their graves; second, to mark graves of eligible persons in national, state, and private cemeteries upon proper applications; third, to administer the grant program for aid to states in establishing, expanding, or improving state veterans' cemeteries; and fourth, to administer the Presidential Memorial Certificate program.

The National Cemetery System currently operates 114 cemeteries in 38 states (and Puerto Rico), as well as, 33 soldiers' lots and monument sites. Since the system's inception during the Civil War, NCS has conducted 2.4 million interments. In FY97 NCS is projected to have 5,803 acres of developed land. Currently, NCS has approximately 387,500 gravesites available on developed land for future needs. The undeveloped acres can accommodate 1.6 million additional casket sites.

The IBVSO's major concern regarding the future of the system is that it continue to expand to meet the needs of America's 26 million veterans. NCS statistics show that, historically, 10 percent of all veterans choose interment in national cemeteries. If the 10 percent figure continues to hold true, between 1997 and 2010 approximately 825,000 veterans will request burial in a national cemetery. Clearly, the existing developed acreage will not sustain that total, and Congress must support expansion of existing sites where land is available. That means that without further development, NCS faces a deficit of nearly 440,000 interment sites by the year 2010. In 1995 there was a total of 70,522 interments. As we all know the veteran population is aging and demands will peak around 2003 and remain constant for several years.

Residence and distance are also significant in the choice of a burial site. Many veterans' families are reluctant to cross state lines to bury a loved one, and 75 miles seems to be the maximum distance most consider a reasonable distance from home. For these reasons, it is important that NCS develop and maintain open national cemeteries in each state.

Another problem facing NCS is the impending closure of many of

its facilities due to lack of empty gravesites for initial burials. While many of these cemeteries will still accept cremains in their columbarium and second family members within occupied gravesites, veterans who live in those areas may not find space available for burial. VA estimates that in the next 4 to 5 years, it will declare seven more cemeteries closed to initial burial.

NCS has five new cemeteries in the planning stages in Albany, Chicago, Cleveland, Dallas and Seattle. Lands have been obtained for these planned new national cemeteries and now funding must follow. It is estimated that the construction costs would be as follows: Dallas - \$16.2 million, Chicago - \$18.4 million, Albany - \$14.1 million, Cleveland - \$15.3 million, while Seattle has already been funded. The President's budget does not fund Albany nor Cleveland.

NCS faces a shortfall of 261 FTEs in 1997. It will need 13 additional FTEs just to maintain the current level of service. To achieve the expected levels of service, NCS will emphasize burial operations in lieu of other functions, such as maintenance and repair. The backlog in obsolete equipment by the end of fiscal year 1996 is estimated at \$7.7 million. An additional \$2.2 million in replacement equipment needs are projected for fiscal year 1997.

The implications are clear. Congress and the Administration must properly fund NCS's maintenance and repair, equipment and FTEE accounts. IBVSOs expect service levels to remain high and that cannot be achieved without resources. The cemetery system cannot be allowed to deteriorate.

The last two years, the *Independent Budget* pointed out NCS's problem in complying with historic preservation requirements. We continue to recommend relief for the NCS that would allow the system to tear down dilapidated buildings that pose a safety hazard and detract from the park-like setting of most cemeteries, even though they are potentially eligible for the National Register of Historic Places.

The matching grant program for state veterans cemeteries will assume more importance as national cemeteries close. Last year, VA awarded grants totaling \$2,821,931 to eight states. We recommend \$2.5 million at a minimum to be provided in FY97.

NCS also administers the Presidential Memorial Certificate Program, which provided 285,076 certificates in 1995. That is expected to grow to 302,000 for FY97. To assist NCS in processing applications and to keep waiting times short, the IBVSOs recommend \$500,000 to complete the Automated Memorial Application System (AMAS).

As part of the burial benefits program, VA provides a headstone or flat bronze grave marker to eligible veterans requesting the service. Last year, VA provided 301,657 headstones and markers. Demand in FY97 is expected to be 326,000.

Recommendations

- Add, at least, 20 more FTEEs to cover incremental workload increases.
- Provide at least \$2.2 million in additional funds to reduce equipment backlog.
- Add \$500,000 to complete the Automated Memorial Application System (AMAS).
- We again ask the VA to begin a feasibility study to promote a second national cemetery to ease the demand for space at Arlington National Cemetery. While the IBVSOs understand that it is not possible to duplicate the national appeal of Arlington, properly promoted and placed, the second site with national significance should be pursued.
- VA should aggressively pursue an open cemetery in each state.
- VA should actively pursue expansion of existing national cemeteries wherever possible.
- VA should recommit itself to a policy of an open national cemetery within 75 miles of 75 percent of America's veterans.
- VA should seek relief from historic preservation requirements at NCS facilities wherever appropriate.

Cost

- \$82 million appropriation for FY97.

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STATEMENT OF JOHN VITIKACS, ASSISTANT DIRECTOR
NATIONAL VETERANS AFFAIRS AND REHABILITATION COMMISSION
THE AMERICAN LEGION
BEFORE THE
COMMITTEE ON VETERANS AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
ON FISCAL YEAR 1997 VA BUDGET
March 29, 1996

Mr. Chairman and Members of the Committee:

The American Legion appreciates the opportunity to present its views on the Administration's proposed budget for the Department of Veterans Affairs (VA) for Fiscal Year (FY) 1997.

For FY 1997, President Clinton has requested \$39.3 billion for the programs and operations of the Department of Veterans Affairs. The proposal represents an increase of \$794 million over the FY 1996 budget estimate. The proposal provides for selective programs and functions as follows:

FISCAL YEAR 1997
DEPARTMENT OF VETERANS AFFAIRS BUDGET PROPOSAL

	<u>Proposed FY 1997</u>	<u>American Legion Recommendation</u>
Medical Care	\$17 billion	\$20.5 billion
Medical Research	\$257 million	\$290 million
Construction	\$480 million	\$750 million
State Home		
Grants Program	\$40 million	\$75 million
National Cemeteries	\$77 million	\$78 million
Veterans Benefits		
Administration (GOE)	\$800 million	\$643 million

MEDICAL CARE

The VA medical care budget request contains a \$448 million increase above the FY 1996 Conference level. The full-time employee (FTE) level will decrease by 5,154 to 191,000 FTE.

As part of the FY 1997 request, VA is proposing a legislative change -- gainsharing. This proposal will allow the medical system to retain a portion of third party recoveries above a certain level. Once the medical care cost recovery goal is reached, VA would keep 25 percent of collections for Category A veterans and 100 percent for Category C veterans.

The American Legion is pleased that the President has proposed an increase in FY 1997 funding for VA medical care. The proposed increase is necessary so that basic inflationary costs are accommodated. The proposal reflects a medical care funding increase of 2.7 percent above the FY 1996 conference level. The majority of the proposed funding increase will be redirected from acute inpatient programs and toward outpatient care, long-term care, psychiatric and rehabilitative care.

Mr. Chairman, this Committee is fully aware of VA's budget predicament. Recent VA medical care budget increases have not kept pace with medical inflation. If VA had received the average rate of funding growth as measured by the medical consumer price index between 1980 and 1996 (an average increase of 7.8%), its medical care funding today would be \$18.8 billion, or \$2.3 billion above the FY 1996 Conference level. Allowing for a lower medical care consumer price index of 5 percent for 1996, VA's FY 1997 medical care budget would still require approximately \$20 billion.

Mr. Chairman, there is room for additional efficiencies within VHA. The recent development of the Veterans Integrated Service Networks (VISNs) can help achieve these efficiencies. Each VISN has the potential of reducing administrative and clinical duplications. However, by themselves, the VISNs cannot

achieve all necessary VHA restructuring. To do so will require Congress to provide VHA the authority to decentralize and promote outpatient care.

Current law does not promote the efficient use of resources to treat veteran patients. The revision of existing eligibility rules and regulations must be realized to achieve the best use of available resources. This authority is very much needed if VHA is to restructure its delivery system to provide state-of-the-art and cost effective health care. Once accomplished, facility renovations must be funded, as necessary, to promote the efficient and effective use of ambulatory and primary care.

Gainsharing

Legislation would propose to allow VA to retain a portion of third party recoveries above a defined collection goal. VA currently has the authority to collect from third-party insurers for the treatment of non-service connected conditions. However, all recoveries in excess of administrative expenses are returned to the U.S. Treasury. Under the "gainsharing" proposal, once the Department exceeds its collections goal, additional collections would be shared with VA retaining 25 percent of collections from Category A veterans and 100 percent of collections from Category C veterans.

Mr. Chairman, The American Legion recognizes that new revenue sources are required for VHA. We have no major concern with the gainsharing proposal, so long as no change is made regarding existing law that prohibits VA from billing third-party insurers for service-connected conditions.

Additionally, VA must recognize that fewer Category C veterans are treated today within VHA. The gainsharing proposal is a subtle way to make up for fewer Category C patients. If VA can retain 100 percent for Category C (non-service connected) veterans, we see no reason why the same principle should not apply for Category A -- non-service connected conditions.

THE VETERANS' HEALTH CARE SECURITY PLAN

Mr. Chairman, The American Legion recognizes the need for change within the Veterans Health Administration (VHA). In early 1992, The American Legion published "The American Legion Proposal To Improve Veterans Health Care." Nearly all those advocating the need for change within VHA support the basic tenets of the proposal. Now, The American Legion has gone a step further to promote progressive change by producing "The Veterans' Health Care Security Plan (VHCSP)." This plan will reform the way the Department of Veterans Affairs and, in particular, the Veterans Health Administration, will deliver health care to veterans and their dependents, in what setting and how that care is financed.

In short, the VHCSP proposes opening up VHA to all veterans and their immediate dependents, based upon a system of entitled care and through a VA health care insurance plan. Veterans who are now unable to gain access to VA would be offered a range of portable health care plans, depending upon their individual needs. They would be responsible for paying premiums, co-payments and deductibles. The proposal would allow VA, for the first time, to keep money paid to it by private insurers, Medicare and Medicaid, instead of turning those funds over to the Treasury Department. Additionally, the proposal would establish a greater alliance between VA and the private health care sector through expanded contracting and sharing authority.

MEDICAL AND PROSTHETIC RESEARCH

The American Legion recommends appropriations of \$299 million for VA's distinguished medical and prosthetic research programs for FY 1997.

VA is the only entity directly involved in research activities related to veterans' medical maladies. It is extremely important for VA to continue its cutting edge research studies in areas related to Persian Gulf illnesses, atomic

veterans, PTSD, mental illness, geriatrics, women veterans, AIDS, prosthetics and rehabilitation, and so forth.

The American Legion supports the in-house review of VA research priorities currently underway. To our knowledge, the research service review, directed by the Under Secretary for Health, has not been previously accomplished.

Though we have not been fully briefed on the review, we understand the focus is different from the previous VA Advisory Committee for Health Research Policy study, which issued its report in August 1991. That report focused on several vital aspects of VA's research program and determined the program was seriously underfunded, among other conclusions. The current review will help determine the future emphasis of VA research programs, from a policy perspective. We commend Dr. Kizer for this initiative.

CONSTRUCTION

The President's proposed FY 1997 construction budget of \$439 million includes \$250 million for major projects and \$189 million for minor projects. The VA proposes changing the minor cost limitation from less than \$3 million to less than \$10 million. Also, VA proposes changing the minor construction appropriation language to allow use of minor construction funding for enhanced-use leasing.

Matching the President's FY 1996 major construction request, the FY 1997 budget proposes the construction of new VA medical centers at Travis Air Force Base in northern California and in Brevard County, Florida. This Committee is well aware of the background issues related to these requests. The American Legion is still of the opinion that both of these facilities are required. We are not aware of any credible analysis which disputes VA's contention that veterans in the two proposed catchment areas are underserved.

VA/Travis Air Force Base Joint Venture Project

Today, VA operates approximately 53 beds at the Travis AFB hospital. Also, a new VA outpatient clinic has been constructed in the Sacramento area. The main concern for veterans in northern California is access to inpatient care. The Travis facility is unable to adequately accommodate veterans' inpatient requirements. Even though VA facilities at Palo Alto and San Francisco have been designated as inpatient referral centers, veterans need access to a VA facility that is located closer to the community in which they live.

All of the concerns surrounding the need for the proposed Travis facility emanate from the closure of VAMC Martinez in early 1990. At that time the Martinez facility was treating 7,000 inpatients annually. Since the closure of the hospital, the number of veteran patients referred to other VA hospitals has been reduced by half. It appears that the reduction is directly related to access issues.

Brevard County VA Medical Center

The proposed Brevard County, Florida facility would help to meet the large unmet need for veterans' hospital care in east central Florida, and provide much needed psychiatric beds and long-term care beds for the entire state. The General Accounting Office (GAO) report entitled, Need for Brevard Hospital Not Justified (HEHS-95-192), fails to appreciate the problems faced by Florida veterans, and then offers piecemeal solutions.

The VA has failed to provide sufficient resources to fully employ its health care facilities already in Florida, and build the facilities necessary to extend services to where they are not provided. If GAO had pursued an honest analysis of Florida's circumstances, it would have concluded that a VA facility in east central Florida was required.

Currently, there is limited access to VA care in the proposed Brevard County location. Building only an outpatient clinic will not address the inequity of access to inpatient care and the need for long-term and psychiatric care. Apparently, GAO believes it is acceptable that Florida veterans must be sent out of State to receive long-term psychiatric care. The GAO report concluded that it is acceptable for veterans with psychiatric conditions to be treated in State psychiatric facilities. To treat most veterans with psychiatric conditions in State facilities, places an unfunded mandate on the State of Florida.

Florida's veterans have already paid a high price for Congress's and VA's failure to fully assess and respond to their relatively disadvantaged status. The proposed Brevard County hospital must receive full funding support.

Other priority major construction projects include:

Outpatient Improvements:

- Honolulu, HI (\$16 million)
- Wilkes-Barre, PA (\$42.7 million)

Patient Environment:

- Marion, IN (replace psychiatric beds - \$17.3 million)
- Pittsburgh, PA (environmental improvements - \$17.4 million)
- Salisbury, NC (environmental improvements - \$18.2 million)

National Cemetery System (new cemeteries):

- Chicago, IL (\$18.4 million)
- Dallas/Ft. Worth, TX (\$16.2 million)

Grants for Construction of State Extended Care Facilities

The budget request for this program for FY 1997 is \$40 million. This figure represents a reduction of \$7.4 million from the FY 1996 level. At a minimum, the funding level for the program for FY 1997 should be \$75 million.

Currently, Priority Group I of State Home construction grant requests total approximately \$150,000. All Priority Group funding requests exceed \$250,000. State Home construction grant requests must be funded at approximately \$75 million per year for the next several years to satisfactorily meet the needs of the program.

The American Legion believes the President's proposed FY 1997 State Home construction budget is essential to meet current and future capital facility requirements.

NATIONAL CEMETERY SYSTEM

The National Cemetery System (NCS) requests a budget authority of approximately \$77 million and 1,335 FTE for FY 1997. This is an increase of \$4.3 million and 14 FTE over the 1996 current estimate.

Ten additional FTE will address increased wage grade and GS staffing requirements which will result from estimated increases in interment and maintenance workloads. Four additional FTE are required for the activation of the new Tahoma National Cemetery near Seattle, Washington. This cemetery is scheduled to open in 1998.

Mr. Chairman, the FY 1997 NCS budget request is critical to the continued success of the program. There has been no budget increase for NCS operations in the FY 1996 continuing resolutions. With an increase in workload and the total acreage maintained, plus planning for a new national cemetery, the additional 14 FTE increase is essential. Equipment funding remains deficit by approximately \$9 million. All told, NCS requires the full additional funding and FTE request for FY 1997.

VETERANS BENEFITS PROGRAMS

For FY 1997, the proposed appropriation for all VA benefit programs would be \$18.48 billion. This represents an increase of \$139 million over the estimate for FY 1996. The increase reflects higher average benefit payments in a number of programs to veterans and other eligible beneficiaries. Requested staffing in the Veterans Benefits Administration (VBA) for administration and claims processing is 12,076 FTE. That represents a reduction in staff by 624 FTE from FY 1996 levels. General Operating Expenses (GOE) for the staffing of the field offices and VA Central Office will increase by \$32.5 million to \$643 million, although there will be a net decrease of 624 FTE over the FY 1996 staffing level. The reduction in personnel is predicated on decreases in the projected workload and the impact of ten restructuring initiatives designed to change VBA field station operations.

Included in the VBA request are several proposed legislative changes. There is a 2.8 percent cost-of-living adjustment (COLA), effective December 1, 1996, for recipients of disability compensation and dependency and indemnity compensation (DIC). As with all compensation benefits, payments will be rounded down to the nearest dollar through FY 2002. The estimated cost of the 2.8 percent COLA is \$288.7 million. The American Legion has long supported the annual adjustment in benefits as essential to ensuring the continued well being of disabled veterans and their families.

VA also proposes legislation to revise the current standard for entitlement to compensation for injury or death due to VA medical care. 38 USC 1151 would be changed to preclude benefit payments for the reasonably foreseeable future as a result of improper VA care. The American Legion does not support a change in the current statute.

Legislation will be proposed to permanently extend VA authority to obtain income information from Internal Revenue and Social Security records. This will allow VA to conduct comprehensive and accurate income verification. The American Legion supports the proposed extension of VA's authority in order to ensure the continued fiscal integrity of benefit payment programs.

In addition, proposed legislation would extend the current \$90 a month VA pension limitation for recipients in Medicaid covered nursing homes through FY 2002. The American Legion supports this measure as a means of providing that the nursing home care costs of veterans and surviving spouses are met by Medicaid and that the \$90 a month in VA pension is available for their personal needs.

VA is also proposing to change the name of VA Regional Offices to Veterans Benefits Offices as part of VBA's plan to restructure their field offices. The American Legion has a number of concerns regarding the restructuring initiatives and the adverse effect on veterans.

Veterans Benefits Administration

The American Legion is very concerned by VBA's proposed reduction of 624 FTE in field station personnel and the impact of the planned restructuring initiatives on the quality and timeliness of its claims adjudication process. This proposed reduction in personnel is predicated on a decrease in the overall workload in the various benefit programs together with increased productivity related to a variety of new and ongoing program changes and computer enhancements. VBA is continuing with its Business Re-engineering Program along with the development of a new VA computer system - VETSNET. Training for adjudication personnel has been improved which together with the implementation of Rating Board Automation and other new programs under Stage I of VA's long-term computer modernization program have improved efficiency and productivity. Steps are also underway to improve VA/DOD cooperative efforts. In addition, VBA projects that fewer personnel will be required to process and adjudicate benefits claims due to the various improved operating

efficiencies associated with the scheduled implementation of the field restructuring initiatives in Fiscal Years 1996-97.

With regard to the underlying assumptions and data provided in support of VBA's restructuring plan, The American Legion recognizes that despite some cutbacks in personnel, progress has been made in reducing the number of pending benefit claims. By the end of FY 1995, the backlog had declined to 385,000. Much of this reduction was accomplished through the substantial use of overtime funds. However, the proposal for FY 1997 does not provide for similar overtime funding. The impasse on the Federal budget that resulted in two partial shutdowns of VA and lost production time in the 2nd quarter of this fiscal year has caused the backlog of pending claims to grow rather than continue the earlier downward trend. There are currently over 389,000 claims in process.

VBA acknowledges that its workload will remain high. Medical and legal issues in disability and death claims have become increasingly complex with more issues per claim. These factors necessarily make the adjudication process more time consuming and require greater training and expertise. The slight decline in certain type of claims from the older generation of veterans (World War I, World War II, and Korean) is going to be more than offset by a projected increase in claims from veterans of service in Vietnam, post-Vietnam, and now the Persian Gulf War. VBA also acknowledges that the decisions of the Court of Veterans Appeals have resulted in improved service to veterans, but changes in VA's adjudication and appeals procedures have slowed down the actual processing of individual claims. Such changes have contributed to the overall backlog of pending cases. VBA projects an increasing number of claims from individuals leaving service due to the continued downsizing of active duty and reserve forces. The American Legion is particularly concerned by the disposition of claims from Persian Gulf War veterans for undiagnosed illnesses.

With regard to VBA's proposal to restructure and consolidate activities at many of its field stations, this was developed in response to the prospect of severe budget constraints under a yet to be agreed upon FY 1996 Federal budget and a 7 year deficit reduction plan. A series of ten restructuring initiatives have been announced which are intended to make field stations operate more efficiently, reduce labor costs, and improve service to veterans. In the past, The American Legion has supported VA's efforts to make its operations more efficient and improve the quality and timeliness of its claims process. However, we have a number of concerns with both the rationale for this undertaking and the Department's ability to achieve the promised results and cost-savings.

Over the past 25 years, VA has made several unsuccessful attempts to consolidate its regional offices. It is obvious that this latest restructuring program, as described, constitutes a major reorganization of the Veterans Benefits Administration. The Progress Report of the Field Restructuring Task Force issued in December 1995 and the VA's FY 1997 budget request, sets forth the various steps and initiatives which the Department states it intends to pursue beginning in April 1996. The Secretary has recently announced that members of Congress and the veterans service organizations have been briefed on this plan.

The American Legion believes that VA has not complied with the reporting requirement of 38 USC 510 that stipulates that the Secretary may not implement any such major reorganization unless a detailed plan and justification is first submitted to the appropriate congressional committees. We note that this provision was originally enacted in 1981, following hearings into VA's efforts to implement a seriously flawed reorganization plan. This section was later amended and recodified as 38 USC 510. In our view, this issue is much too important and the potential costs to veterans and the nation much too great not to have congressional oversight and budget hearings. Briefings of members of Congress and their staff do not meet the letter or intent of this provision of the law.

There are numerous questions regarding VBA's approach to their current and future budget prospects, the stated objectives and their capability to achieve them, including the up-front costs that may be involved. VA's statements of assurance of improved service not withstanding, we also have many long-standing concerns regarding problems in VA's long-term computer modernization program as well as issues relating to serious deficiencies in the quality of adjudication decisions which are not directly addressed by this plan. The American Legion is not prepared to support the Department's restructuring plan without the opportunity for a full, public examination and debate on this historic change in the way VBA delivers service to veterans. The American Legion believes it is essential that hearings be held before the Veterans Affairs Committees and appropriate budget and appropriations committees at an early date to consider the implications of the Department's budget request for FY 1997.

Vocational Rehabilitation

Although overall staffing for the Vocation Rehabilitation and Counseling Service (VR&C) will increase by 109 FTE, The American Legion remains troubled by the lack of additional Counseling Psychologists and Vocational Rehabilitation Specialists. VR&C will be facing an increasing caseload and demand for all types of services as a result of the continuing downsizing of the armed forces and the success of the TAP/DTAP programs. Participation in vocational rehabilitation is also expected to increase as a result of the precedent decision by the CVA in Davenport v. Brown.

VR&C has made some progress in reducing the length of time a disabled veteran must wait for an appointment for a vocational evaluation. It was taking 70 days in 1995. In the current fiscal year, this is expected to decrease to 68 days and in FY 1997 to be down to 65 days. However, the counseling workload is projected to increase by almost 15 percent. Of particular concern is the continued projected increase in the caseload that Vocational Specialists are expected to manage. Despite the fact that VR&C has established a case manager system, the sheer number of cases that must be monitored and appropriate action or assistance provided is overwhelming. An average caseload for a vocational specialist in the private sector is 125. In VA for 1995, the caseload was 260. It is expected to be 317 in FY 1997. In our view, it is impossible for any individual, no matter how qualified or how dedicated, to handle that many trainees effectively. Similarly, once a veteran completes his or her rehabilitation program of education or training and seeks to reenter the workforce, the lack of adequate employment services is causing an increasing amount of time to be spent before suitable employment is found.

The American Legion believes there is a critical need for additional personnel funding for the VR&C program. We recommend for FY 1997 an appropriation of \$45 million and an additional 100 FTE to improve the timeliness and responsiveness of VA's efforts to assist disabled veterans' reentering the civilian workforce.

Board of Veterans Appeals

The backlog of appeals awaiting action by the Board of Veterans Appeals (BVA) continues at crisis levels with an average response time at the end of FY 1995 of 763 days. At the present time, there are approximately 12,500 cases physically at the Board in Washington, DC, either in storage, pending review by the veterans service organizations, or under active consideration by a section of the Board. However, there are approximately 58,000 certified appeals being held in the regional offices due to the lack of storage space at the Board. The 1997 budget request includes 50 additional FTE which will enable the Board to improve its response time from 675 days by the end of the current fiscal year and to 545 days in FY 1997.

In early 1994, 40,000 cases were pending at the Board. At that time, personal hearings were temporarily suspended and were not resumed until February 1995. Similarly, the transfer of certified appeals from the regional offices was suspended and not

resumed until mid-1995. The recent increases in staffing along with a number of procedural and administrative changes has enabled the Board to increase the number of decisions rendered. It is estimated that 32,250 decisions will be rendered in FY 1996 and 41,200 in FY 1997.

Veterans who disagree with a decision on their claim by their local VA regional office should not have to wait years to have their case considered by the Board of Veterans Appeals. They are entitled to timely action to resolve the issues raised in the appeal. The additional personnel requested for FY 1997 will enable the Board to increase productivity resulting in more timely service to veterans, their dependents, and survivors.

SUMMARY

Department of Veterans Affairs programs and services symbolize the gratitude of the American people for the sacrifices of the nation's veterans. The American Legion appreciates the Administration's effort to present a FY 1997 budget for VA programs and services which reflects an increase of \$700 million over the current year estimate. The American Legion realizes that many individuals look at VA, and oftentimes see a large, impersonal bureaucracy, struggling to provide quality service to its veteran beneficiaries. The American Legion believes that taxpayers must be satisfied with the programs and services administered by VA. All VA programs and services must be delivered in the highest quality, cost-effective manner.

The American Legion does not accept that VA is failing in its mission, but do believe, that a more skillful execution of functions is required. VA is the second largest government Department, administering services to millions of veterans, dependents and survivors. VA is in the process of reforming its benefits and medical service programs, which admittedly require reinvention. The FY 1997 VA budget request will help to continue the vital reforms already underway within the Veterans Health Administration and the Veterans Benefits Administration. However, while these reforms are underway, the quality and timeliness of services provided by VA could further deteriorate without minimally meeting the Administration's FY 1997 budget proposals.

The American Legion has some important concerns regarding the VBA field restructuring proposal. We believe the proposal should be viewed with the same degree of oversight as VHA's recent VISN reorganization. Clearly, the proposal is inconsistent with the intent of section 510, title 38, United States Code. The American Legion strongly supports congressional oversight and budget hearings on the proposal.

With regard to the Veterans Health Administration, The American Legion realizes that the system has to undergo some fundamental changes. Additionally, VA must correct its uneven allocation of resources among facilities. The Congress must provide VA the necessary tools to correct long standing inefficiencies and to reform the arcane eligibility system. The American Legion believes The Veterans' Health Care Security Plan is a good blueprint to reinvent the Veterans Health Administration and to develop new funding resources for the VA medical care system. We look forward to further hearings on this vital subject.

Mr. Chairman, that concludes our statement.



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A Not-For-Profit Veterans Service Organization Chartered by the United States Congress

Statement of

VIETNAM VETERANS OF AMERICA

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Before The

House Veterans' Affairs Committee

Regarding

FY 1997 Veterans Program Budget

March 29, 1996

Introduction

Mr. Chairman and members of the Committee. Vietnam Veterans of America (VVA) is pleased to present our views and recommendations on the Fiscal Year 1997 Department of Veterans Affairs (VA) budget proposals. As a former House Appropriations Committee Professional Staff Member and Vietnam-era veteran, I am proud to come before this Committee to share VVA's concerns on the quantity and quality of veterans budgetary resources. Veterans have been well served by the contributions and compassion shown throughout the years by this committee and its bipartisan leadership.

VVA submitted our 1996 legislative priorities to the Veterans' Affairs Committees earlier this week, which detail the specific programs VVA feels are most important. We draw your attention to these priorities as well. With the scarcity of federal dollars and the push to balance the federal budget, it is no longer realistic nor appropriate to convey to you expectations and recommendations for ever more spending. The American taxpayer is already burdened by our nation's current debt and deficit spending policies. Our goals must be to achieve budgetary savings and make programs work better.

The VA itself, the General Accounting Office (GAO) and others have noted that VA can achieve certain efficiencies through reorganization and program streamlining. Therefore VVA does not recommend any increased funding overall, but will offer some program and process reform recommendations and spending targets which will assure that limited resources for important veterans programs are met. At the same time, we reiterate a deeply held principle that *veterans benefits are earned benefits, not entitlements*, and thus our nation's commitment must be budgeted accordingly.

Many of the programs aimed at helping to reintegrate veterans into mainstream civilian society actually *save* federal tax dollars by having former warriors contribute to the tax-base rather than depend upon federal assistance programs. Most veterans never use the federal government programs aimed at addressing their unique needs, and ask only for respect and the assurance that if

they ever do need help, the nation that sent them to war will provide it. Some of the help veterans need is unique. Service-connected injuries and illnesses are clearly the responsibility of the federal government.

In other words, VVA recommends prioritizing veterans' program needs in a way which improves efficiency and performance results, and eliminates obsolete programs and spending which is not cost effective. Certainly program changes should be budget neutral or produce innovative budget savings.

An Era of Downsizing

As an initial point of discussion we would like to provide some "big picture" macro perspectives for the FY 1997 budget, then look through the periscope at what we see as trends and threats on the surface and the horizon relating to VVA's priorities.

The President last week submitted his administration's Fiscal Year 1997 budget proposal, which calls for spending obligations for over \$1.6 trillion. This amounted to an increase of \$52.9 billion above FY 1996. Tax and other government income are estimated at \$1.4 trillion, resulting in an ongoing deficit of more than \$148 billion. Paying for the interest on the \$5 trillion debt will alone eat up over \$239 billion in mandatory payments.

The real problem in controlling America's federal budget is the growth in mandatory/entitlement spending, estimated to grow from \$1.0407 trillion in FY 1996 to \$1.1022 trillion in the FY 1997 budget cycle. These mandatory programs grow by themselves and are not subject by law to reductions. Most, such as Social Security, Medicare and Medicaid, automatically increase by being tied to annual cost of living allowance (COLA) increases. Congress and the President have not yet found the courage to deal with this crisis.

So far only cosmetic fine-tuning of the rapidly shrinking discretionary spending levels -- now less than one third of the \$1.6 trillion budget or \$547.8 billion in outlays for FY 1997. The largest

growth rates for these uncontrollable programs are projected from 1996 to 2002 as follows: Medicaid + \$869 billion; Medicare + \$1,640 trillion; federal civilian retirement + \$326.1 billion; Food and Nutrition + \$279.2 billion; Income support \$498.7 billion; Social Security payments + \$2.8 trillion; net interest payments + \$1.6 trillion. No nation-state in the history of the world has or will survive this morass for long.

VVA members also recognize an urgent need to balance our federal budget, eliminate deficit spending, and above all reduce our staggering \$5 trillion dollar federal debt. Our children, our grandchildren and our nations' future standard of living and economic well-being are at stake. Maintaining these important American values was and is important enough for us to fight and die for, along with our basic rights as a free people. The continued common goal for veterans, as well as all other Americans with the country's best interest in mind, is getting our financial house in order.

How the Veterans Budget Compares to the Whole

For FY 1997, the President requested total new budget authority of \$39.3 billion to support all programs administered by the Department of Veterans Affairs (VA). This total indicates an actual increase of \$720.8 million above FY 1996 net budget authority. The net outlays go up from \$37.6 billion in FY 1996 to \$39.8 billion in FY 1997. This is only a slight 1.87 percent increase. The total VA discretionary/controllable program spending consists of \$18.9 billion for FY 1997, a \$573 million increase from FY 1996 or modest 3.13 percent growth. VA mandatory spending for FY 1997 is \$20.4 billion, an increase of \$422.9 million over FY 1996 or 2.11 percent higher.

The largest single element of VA's discretionary spending and costs are the medical and health care accounts at \$17.3 billion, only a very modest 2.62 percent increase above FY 1996. VA medical care is currently being reorganized to provide more cost-effective care. We will detail additional recommendations regarding VA health care in a later section of this testimony. With regard to specific programs, VVA urges you to reject the Administration's proposal to zero-out funding for the Health Professional Scholarship program.

We also suggest that you and your colleagues on the Budget and Appropriations Committees very carefully evaluate the need and justification for spending over \$480 million proposed for construction projects, a substantial increase of more than 28 percent over last year. It is our belief that Congress should be able to use this money for more cost-effective outpatient facilities, better supportive services, and especially for an expanded mission of the low-cost Vet Centers as points of access for VA care.

The mandatory side of the proposed VA budget -- \$20.4 billion -- actually grows from the FY 1996 level at only 2.11 percent increase (lower than the real inflation rate). Overall, when compared to most other agencies and especially the HHS mandatory spending program growth, the best way to classify proposed spending for veterans is a slow-flat freeze. All spending on programs for veterans reflects less than 3.8 percent growth.

On the whole, VVA does not aim to quibble over specific dollars. Rather, our serious concerns are associated more with service delivery, program management, and excess red-tape and bureaucratic obstacles.

Addressing VA Budget Dynamics

VVA urges Congress to evaluate the merits of adopting a resolution to realign the existing appropriations subcommittee structure, in order to create greater accountability and funding integrity through closer coordination of authorized missions and budget functions.

The current thirteen appropriations subcommittees may only control how much money is to be allocated for the rapidly declining discretionary budget authority. The subcommittee currently responsible for deciding how much of the declining discretionary pot should go for veterans benefits and medical programs has been saddled with the most diverse and complex tasks of any other appropriation subcommittee. The VA, HUD and Independent Agencies Appropriations Subcommittees in both the Senate and House must juggle funding levels for the conflicting and demanding needs of more than 21 separate agencies, costing over \$77 billion per year. These

include the VA, Department of Housing and Urban Development (HUD), the Environmental Protection Agency (EPA), National Aeronautics and Space Administration (NASA), Federal Emergency Management Agency (FEMA), National Science Foundation (NSF), and 17 small regulatory bodies.

The VA, HUD & Independent Agencies Subcommittee has not been able to withstand the competing pressures and meet the essential spending needs of America's 27 million veterans. Formation of a separate subcommittee for the Department of Veterans Affairs and related program spending would also eliminate the serious perennial problem of how to balance the extreme mismatch between VA's high annual outlay rates, with the low outlays but large budget authority levels of HUD and other agencies. A merger of the Military Construction Subcommittee with the National Security Subcommittee would avoid any increase in the total number of existing subcommittees.

Creation of a veterans affairs appropriations subcommittee is not a new idea, but VVA firmly believes that the time has come for reform of an impossible, inefficient, and unworkable system. We are asking for a simple procedural reform that would establish a stand-alone appropriations subcommittee for veterans programs only. This reconstituted subcommittee should also have spending purview over other veterans programs such as the Veterans Employment and Training Service (VETS) located in the Department of Labor (DOL), as well as certain veterans transition assistance, research and medical care programs currently governed by the Appropriations Subcommittee on National Security. Unless these appropriations subcommittees are reconstituted, these problems will never be resolved. While VVA does not offer this suggestion as the panacea for the budgetary challenges facing VA and the veterans community, it is a practical and easily understood partial solution and clearly a significant step in the right direction.

Other Recommendations for Program Efficiency Reforms

VVA also believes that reforms of the VA health care system would ensure more efficient delivery of care. VVA supports the VHA "Vision for Change" reorganization and believes that

when fully implemented this will improve the quality of health care and the delivery of services. By decentralizing points of access to care and decision making, administrative overhead costs and budgetary savings will result.

Reforming the obsolete and costly VA health care eligibility system in order to shift emphasis to lower-cost outpatient care modalities is another cost-saving proposal the Committee should consider. Additionally, allowing VA to retain a portion of third-party reimbursements would bring new funding streams into the system, reduce reliance on appropriated dollars, and would provide a needed incentive for efficiency. VVA would like to see the Veterans' Affairs Committees revisit the House-passed provisions and work with the Budget and Appropriations Committees to develop a cost-neutral proposal. We commend the Administration for presenting a good first step in the proposed budget, which would enable VA to retain 25 percent of the third-party reimbursements. However this very modest approach will generate minimal funds for only \$132.2 million. VVA supports a more aggressive change which would allow for additional revenue-sharing.

VVA strongly recommends that the Committee work with the appropriators to assure full-funding for the unique community-based Vet Centers. Vet Centers provide proven cost-effective care and reach out to many veterans who do not currently access VA services. Because of their emphasis on less costly outpatient care and preventive medicine, this is an important aspect of overall VHA reform. We do underscore the need to find more efficiencies in VA Post-Traumatic Stress Disorder programs -- many reforms are already underway in these areas. At the same time, VVA urges Congress to find offsets in order to increase resources for PTSD programs which are traditionally under-funded. The Administration's budget requests only \$60.8 million for these programs.

VVA supports a more effective reform for the delivery of supportive service resources in coordination with permanent and transitional housing, treatment, and job training and placement for homeless veterans. HUD alone spends over \$1 billion each year on McKinney Act bricks and mortar programs for the homeless, while the FY 1997 VA budget request only asks for \$92.5 million (which includes only \$4.6 million transfer from HUD). We recommend transfers of more

underutilized HUD funds to meet this need for more supportive services for the homeless veterans program.

Conclusion: Teamwork and Cooperation Will Win Out

VVA is proud of its record of creativity, fiscal integrity and innovative solutions. Today's challenges present exciting opportunities to work as team to improve VA programs for future generations of veterans.

Partisan bickering has created embarrassing and costly government shutdowns, and raised fears and mistrust of government to new highs by all Americans. This must be put aside. The importance of working in a bipartisan manner to support veterans programs is now more important and evident than ever before. VVA pledges our full energies and talents to work with the House, the Senate and the administration, as well as all of our fellow VSO's to clean up the train wreck we now have in government, get back on track and get the train running again. Now more than ever, the veterans community needs to maintain a strong unified position -- united we stand, divided we fall.

VVA appreciates this opportunity to provide our views and recommendation on the FY 1997 budget. We would be pleased to respond to any questions you may have.

STATEMENT OF PRESTON M. TAYLOR JR.
 ASSISTANT SECRETARY FOR
 VETERANS' EMPLOYMENT AND TRAINING
 SUBMITTED TO THE
 COMMITTEE ON VETERANS' AFFAIRS
 U.S. HOUSE OF REPRESENTATIVES

March 29, 1996

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to discuss the Fiscal Year 1997 Department of Labor budget request for its veterans' employment and training programs.

In support of that request, I would like to share with you the FY 1995 accomplishments of the Veterans' Employment and Training Service, or VETS, as it is called.

VETS' main resource is its partnership with the State Employment Security Agencies, or SESAs, whose Disabled Veterans' Outreach Program specialists, or DVOPs, and Local Veterans' Employment Representatives, or LVERs, diligently, and with dedication, deliver direct employment and training services for veterans.

During FY 1995, our joint efforts with the SESAs took advantage of an improving economy to bring the unemployment rate among veterans down to 3.4 percent by year's end.

In the Program Year ending June 30, 1995, 2.3 million veterans registered with the SESAs, and 566,000 were helped into jobs. The SESAs delivered two million individual service transactions on behalf of registered veterans, encompassing a wide range of employment and training services appropriate to their interests and needs -- such as career assessment, interviewing, testing, vocational guidance, counseling, job search activities, and job development. A majority of these services were either delivered directly or facilitated by the DVOPs, LVERs, and other SESA staff, or were obtained through referrals to supportive specialists or agencies. In providing such services, VETS staff advocated vigorously the veterans' referral priority to jobs, training opportunities and employability development services mandated by law.

VETS is redirecting its efforts at the local level to serve veterans most in need of assistance. This focus on veterans most in need is illustrated by the Memorandum of Understanding recently executed by VETS with the Department of Veterans Affairs, or VA, which focuses our efforts on serving the employment needs of disabled veterans in VA's vocational rehabilitation program.

In FY 1995, 152,000 military men and women and their spouses were trained in 3,520 Transition Assistance Program, or TAP, job-readiness workshops at 204 military installations in the U.S. at a cost of approximately \$40 per participant.

An independent national evaluation conducted several years ago on the TAP performance estimated that service members who received TAP orientations, on average, found jobs three weeks earlier than did service members who did not participate in a TAP workshop. The impact of the TAP program continues to make it a valuable investment.

In the program year ending June 30, 1995, more than 5,600 service-connected disabled, Vietnam-era, and recently separated veterans received training through \$8.957 million provided for Job Training Partnership Act Title IV, Part C (JTPA IV-C). Most of these funds were competitively awarded through grants to 14 states. More than 3,000 were helped into jobs.

In FY 1995, the National Veterans' Training Institute -- established in 1986 by Public Law 100-323 and known as NVTI -- trained 2,753 veterans' service providers at the low cost of \$1,162 per trainee. NVTI training increased the quality of services provided through the development of revised courses to address changes in the program requirements of TAP, the veterans' reemployment rights, or VRR program, and case management services.

In FY 1995, VETS successfully closed 1,252 VRR cases. Eighty-five percent of closed cases were closed within 90 days of filing. The 1,387 cases opened in FY 1995 represented a 15 percent increase in program activity. This increase can be attributed in part to passage of the Uniformed Services' Employment and Reemployment Rights Act, known as USERRA, that strengthened the law protecting an individual's right to return to his or her civilian employment from uniformed service without a loss of seniority or benefits based on seniority while on active duty. USERRA also expanded to more than 1.9 million the pool of individuals eligible for such protections from discrimination because of their affiliation with the uniformed service.

The legislatively mandated Advisory Committee on Veterans' Employment and Training, or ACVET, held its initial meeting in the first quarter of FY 1995 and continued its operations throughout the year. The ACVET was created to provide VETS' external constituencies, such as employers and veterans' service organizations, with a forum for advising the Secretary of Labor and the Assistant Secretary for Veterans' Employment and Training on the broad range of issues facing veterans as a group and VETS as an agency. The ACVET produced a report with useful recommendations to the Secretary.

For FY 1997, the Clinton Administration is requesting a total of \$178,870,000 for veterans' employment programs. This includes \$157,118,000 for grants to states that would fund 1,397 LVER positions and 1,598 DVOP specialist positions, and \$21,752,000 for administration that would fund 250 Federal positions. Although the FY 1997 budget request represents a 3.4 percent decrease from the agency's FY 1995 funding, it represents an increase over the funding now being provided through continuing resolutions in FY 1996.

In FY 1996, VETS is beginning to face difficulties in the delivery of its services due to funding reductions and uncertainties that resulted from government shutdowns and sequential continuing resolutions. I note that --

- As of February 1996, States had only 1,536 DVOPs and 1,336 LVERs in place instead of the 1,624 DVOPs and 1,371 LVERs planned. Vacancies are left unfilled by SESA managers who understandably become extremely cautious in times of reduced funding.
- Due to the government shutdowns, TAP workshops had to be postponed, and NVTI training sessions were either canceled or postponed.

As a result of these budgetary circumstances, VETS may not be able to continue its proud record of surpassing previous year achievements in productivity, automation, and reengineering for continuous improvements to benefit our veterans.

Although the President's FY 1997 budget request does not provide for full funding of the State-grants programs as authorized by statute, it does seek an increase over the FY 1996 congressional levels. That funding was below the President's fiscal year 1996 budget request. The President's FY 1997 request would begin increasing the number of DVOP and LVER staff

available to help veterans and transitioning service members into jobs. The funding level requested would enable VETS and its State partners to give emphasis to disabled veterans graduating from vocational rehabilitation programs, continue supporting TAP, and initiate a marketing campaign to encourage employers to hire veterans.

Services to veterans by the front-line providers in VETS' delivery system -- the DVOP and LVER staff in the State Employment Security Agencies -- will continue as the key component of VETS' operations. DVOP and LVER activity in FY 1997 would continue to include all legislatively prescribed responsibilities for ensuring that veterans become job-ready and are properly assisted in securing employment and training suited to their individual needs, with continued priority being given to disabled veterans.

We support the Department's One-Stop initiative because we believe it is an opportunity to improve on how we deliver service to veterans and to test how we can use our dedicated resources -- the DVOPs and LVERs -- to better serve our veterans. We are continuing to work with the Employment and Training Administration in the development of the One-Stop efforts.

The presentation of TAP workshops is a key priority within the \$21,752,000 requested for VETS' various administrative activities. These three-day sessions are being increasingly supported by SESA and VETS' personnel. Requested TAP funding of \$2,768,000 in FY 1997 -- up from \$1,316,000 appropriated in FY 1995 -- would allow TAP workshops to be presented to 164,000 service members.

With the funding requested, VETS would continue its strategic planning efforts designed to make the Federal Contractor program more effective and fully implement the new legislative requirements in chapter 42 of title 38, United States Code, for veterans of the Vietnam era and special disabled veterans particularly.

Similarly, VETS plans to continue reviewing its responsibility to monitor the provision of veterans' preference in Federal employment. VETS and the U.S. Office of Personnel Management recently clarified their understanding of their respective roles in the process of protecting veterans' preference rights.

Other areas of emphasis VETS anticipates pursuing in FY 1997 include the direct marketing of veterans to employers and the providing of special employment assistance for minority, female, and disabled veterans made more effective through enhanced accessibility to job listings, staff skills and use of enhanced technology.

VETS also expects to develop outcome-based measures and standards for two of its key operations, TAP workshops and DVOP/LVER activities, particularly those involving VA vocational rehabilitation program clients and special category veterans.

VETS will reduce its authorized Federal staffing level for FY 1997 to 250 FTE, 22 fewer than in FY 1995. To ameliorate the impact of field and headquarters FTE reductions, the agency will enhance its automated management information systems for veterans' reemployment rights cases, grants management, and quarterly reporting, and will achieve efficiencies through cross-training, relocation, expanded utilization of the remaining staff, and decentralize program operations into regional lead centers.

Again, I appreciate this opportunity to discuss the Administration's FY 1997 budget request for the Veterans' Employment and Training Service.



NCOA®

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**STATEMENT OF
LARRY D. RHEA
DEPUTY DIRECTOR OF LEGISLATIVE AFFAIRS**

**TO THE

COMMITTEE ON VETERANS AFFAIRS
U. S. HOUSE OF REPRESENTATIVES**

**ON THE

DEPARTMENT OF VETERANS AFFAIRS
FISCAL YEAR 1997 BUDGET**

MARCH 29, 1996

Chartered by the United States Congress

The Non Commissioned Officers Association of the USA (NCOA) appreciates the opportunity to comment on the Department of Veterans Affairs (DVA) Fiscal Year 1997 Budget. The Association hopes that our comments will be beneficial to the distinguished Chairman and members of the Committee as you undertake your work on funding levels for DVA in the upcoming fiscal year.

NCOA views the Administration's Fiscal Year 1997 Budget for the DVA as acceptable; however, the Association has serious concerns regarding the proposed reductions in full-time employees (FTE) and about potential adverse implications in the out-years. In short, NCOA believes that the Committee's Views and Estimates for DVA for Fiscal Year 1997 are much more realistic than the proposal of the Administration. NCOA also believes that the Committee's blueprint for DVA funding in the out-years is much more preferable than the uncertainty contained in the Administration's offering.

The Committee's total DVA budget recommendation for FY97 is considerably more than the Administration's request even when the additional supplemental funding for the Veterans Benefits Administration (VBA) is factored in. In total, the Committee's estimates call for \$60.5 million above the Administration's budget request.

NCOA supports the overall total proposed by the Committee but quickly points out that, while greater than the Administration, the Committee's budget proposal for FY97 will not be without consequence. The Committee's recommendation may forestall some of the VA staffing reductions planned but, even under the Committee's plan, reductions in FTE will still occur. Slowing the reduction of FTE would at least have the positive effect of allowing the VA additional time to adjust to the restructuring that is underway. Even under the Committee's recommendation, NCOA believes that VA will be hard pressed to hold the service level of FY96 particularly in health care and possibly in benefit delivery and services.

Two areas within DVA's budget seem to always draw the most attention and hence the greatest criticism - medical care and construction. Reaching consensus on adequate funding

levels for these two areas nearly always boils down to an annual battle in futility and high emotion. While this hearing is about VA's resource requirements, NCOA believes that this annual undertaking is becoming more and more difficult. The pressing need to deal with federal deficit spending and the enormous national debt cannot be ignored. The Committee is faced with a delicate balancing act in finding ways to fulfill VA's obligation to veterans without adding to the taxpayers' burden.

NCOA believes that much of what the Administration, this Committee and Congress do each year relative to VA medical care and construction will never be anything more than a "best guess" until meaningful, equitable eligibility reform is enacted. With each passing day, NCOA believes that eligibility reform becomes more and more crucial.

NCOA has no objection to the funding levels that the Committee has recommended for VA medical care and construction in FY97. Unfortunately, the Committee's proposal, as well as the Administration's budget, appears to be premised on allowing VA to "hold the line"

next fiscal year based on the current cumbersome, inflexible, and unarguably inequitable eligibility rules.

NCOA believes that a realistic level of funding for both medical care and construction can only occur following enactment of eligibility reform. The priorities and level of care to be provided must be clearly defined in an equitable manner and have a closer tie to what the veteran actually earned during military service than is currently the case. Eligibility criteria must be amended to reflect modern medical practice. Then and only then, in NCOA's opinion, can the task of appropriate funding be undertaken. Until the tough, emotional issues surrounding eligibility and priorities are undertaken, NCOA will not quibble over what is enough or not enough.

NCOA is pleased with the Committee's recommendation regarding Medical and Prosthetic Research particularly since DVA has acknowledged that the Administration's budget would

result in a decrease in this important area. Under the House Committee recommendation, research activities would increase by slightly more than \$10 million. If the Committee recommendation is enacted, NCOA believes research activities could proceed at their current pace, possibly even at a modestly increased level.

NCOA is also pleased with and fully supports the following recommendations in the Committees Views and Estimates:

- > A full compensation and DIC cost-of-living adjustment (COLA)
- > The \$21 million Increase in General Operating Expenses (GOE)
- > The continued emphasis on computer modernization to improve benefits delivery.
- > The recommended increase in the Board of Veterans Appeal (BVA) full-time employees (FTE).
- > The 86 FTE increase, to a total of 800 employees, for the Vocational Rehabilitation and Counseling Service.
- > The Increase in FTE for Education Services.
- > The Increased funding and FTE for the National Cemetery Service (NCS).
- > The continuation of funding for the State Veterans' Cemetery Grant Program.
- > The funds necessary to allow the NCS to open 4 new cemeteries by the year 2000.

Thank you.

WRITTEN COMMITTEE QUESTIONS AND THEIR RESPONSES

QUESTIONS FROM CHAIRMAN STUMP

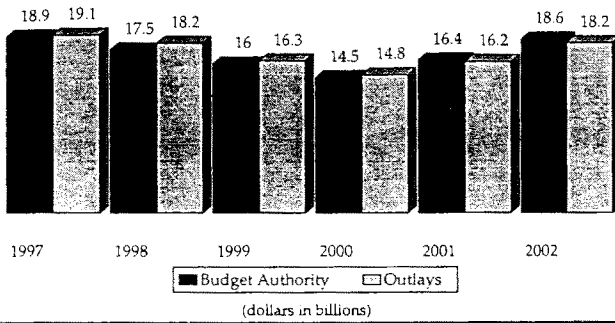
Question 1: In VA budget submissions for fiscal years 1994 through 1996, the Department included a *Future Years Resource Projections* section that presents, in table and graphic form, VA's discretionary and mandatory program accounts over the next five-year period. The Committee has always found this part of VA's submission useful as a mechanism which basically identifies VA program directions and priorities in meeting the challenges that lay ahead for the Department. Please provide the Committee the appropriate tables and graphs to display the *Future Years Resource Projections* by budget authority (net) and outlays for VA appropriation and fund accounts for fiscal years 1997 to 2002.

Answer: As requested, the following graphs and tables are provided to display the *Future Years Resource Projections* by budget authority (net) and outlays for VA appropriation and fund accounts for fiscal years 1997 to 2002.

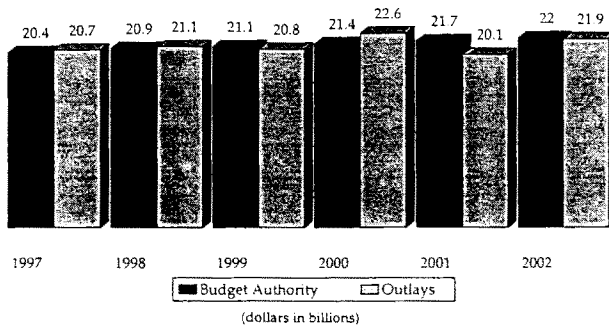


Future Years Resource Projections

Discretionary Programs



Mandatory Programs



*Department of Veterans Affairs
Discretionary and Mandatory Programs*

	1997 (BT)		1998 (BT-1)		1999 (BT-2)		2000 (BT-3)		2001 (BT-4)		2002 (BT-5)	
	BA	Outlay	BA	Outlay	BA	Outlay	BA	Outlay	BA	Outlay	BA	Outlay
Discretionary Programs												
Veterans Benefits Administration												
Guaranty and indemnity program account	\$107,703	\$107,703	\$99,087	\$99,087	\$90,149	\$90,149	\$81,152	\$81,152	\$92,513	\$92,513	\$105,465	\$105,465
Loan guaranty program account	33,810	33,810	31,105	31,105	28,306	28,306	32,269	32,269	33,237	33,237	39,884	39,884
Direct loan program account	80	80	74	74	67	67	60	60	69	69	78	78
Native American veterans housing loan program account	634	2,892	399	399	363	363	337	337	373	373	425	425
Education loan program account	205	205	189	188	172	172	154	154	176	176	201	201
Vocational rehabilitation program account	556	556	512	466	465	465	419	419	478	478	544	544
Subtotal, Veterans Benefits Administration	145,788	145,296	131,345	131,319	119,542	119,542	114,381	114,381	126,845	126,845	146,598	146,598
Veterans Health Administration												
Medical care	17,008,447	17,134,385	15,497,771	16,285,880	14,239,472	14,450,545	12,815,525	13,024,060	14,609,698	14,412,716	16,655,056	16,353,497
Medical and prosthetic research	257,000	256,867	256,440	241,916	215,180	221,255	193,644	199,699	220,755	211,057	231,660	242,794
Medical administration and miscellaneous operating expenses	62,207	62,703	57,230	57,687	53,080	52,553	46,872	47,350	53,434	52,831	60,915	60,227
Certain services revolving fund - Franchise Fund 1/	83	83	0	0	0	0	0	0	0	0	0	0
General pool fund	-45	-45	-40	-40	-54	-54	-49	-49	-56	-56	-64	-64
Traditional housing loan program	65	65	60	60	54	54	49	49	56	56	64	64
Subtotal, Veterans Health Administration	17,357,737	17,456,938	15,941,442	16,585,483	14,508,712	14,714,423	13,536,041	13,281,399	14,883,886	14,679,604	16,947,631	16,655,508
Construction												
Construction, major projects	249,900	311,247	229,908	335,000	209,216	239,000	188,395	221,000	214,656	211,000	244,708	208,422
Construction, minor projects	189,241	176,660	174,102	182,611	154,433	175,539	142,598	161,165	162,532	194,737	185,309	162,550
Grants for the construction of state extended care facilities	39,909	44,106	36,716	64,000	33,412	41,000	30,071	37,807	34,281	34,636	39,080	32,059
Grants for construction of state veterans cemeteries	1,000	3,379	920	2,112	837	964	753	903	859	821	979	822
Pricing revolving fund	0	102,218	0	9,000	0	7,000	0	7,000	0	5,000	0	0
Total, Construction	480,050	555,130	441,646	512,723	481,898	473,503	431,208	427,935	412,347	406,194	470,076	404,215

Department of Veterans Affairs
Discretionary and Mandatory Programs
(dollars in thousands)

	1997 (BY)		1998 (BY+1)		1999 (BY+2)		2000 (BY+3)		2001 (BY+4)		2002 (BY+5)	
	BA	Outlay	BA	Outlay	BA	Outlay	BA	Outlay	BA	Outlay	BA	Outlay
Departmental Administration												
Supply fund	-1,964	-1,964		0		0		0		0		0
National cemetery gift fund	50	50	50	45	50	45	50	45	50	45	50	45
Subtotal, Departmental Administration	-1,914	-1,914	50	45	50	45	50	45	50	45	50	45
Proprietary receipts												
Fees and other medical services	-524,629	-524,629	-608,025	-608,025	-595,473	-595,473	-312,481	-312,481	-319,202	-319,202	-321,033	-321,033
Proposed legislation					-37,296	-37,296	-39,112	-39,112	-40,918	-40,918	-42,815	-42,815
Total Fees and other medical services	-524,629	-524,629	-608,025	-608,025	-632,769	-632,769	-352,593	-352,593	-360,120	-360,120	-363,848	-363,848
GI Bill	-253,000	-253,000	-246,000	-246,000	-246,000	-246,000	-246,000	-246,000	-259,000	-259,000	-259,000	-259,000
Third party recoveries	-204,194	-204,194	-149,000	-149,000	146,479	146,479	-144,737	-144,737	-145,032	-145,032	-145,963	-145,963
Proposed legislation	-48,608	-48,608	-50,449	-50,449	-329,973	-329,973	-337,241	-337,241	-342,429	-342,429	-358,950	-358,950
Total Third party recoveries	-325,802	-325,802	-199,449	-199,449	-183,494	-183,494	-483,978	-483,978	-487,461	-487,461	-524,913	-524,913
National service life insurance fund	-257,560	-257,560	-238,000	-238,000	-217,000	-217,000	-198,000	-198,000	-180,000	-180,000	-163,000	-163,000
Post-Vietnam era veterans education account	-4,000	-4,000	-4,000	-4,000	0	0	0	0	0	0	0	0
Subtotal, Proprietary receipts	-1,281,991	-1,281,991	-1,297,474	-1,297,474	-1,279,363	-1,279,363	-1,278,671	-1,278,671	-1,286,581	-1,286,581	-1,310,761	-1,310,761
Intragovernmental transactions												
National service life insurance fund	-2,000	-2,000	-2,000	-2,000	-2,000	-2,000	-2,000	-2,000	-2,000	-2,000	-2,000	-2,000
Post-Vietnam era veterans education account	-15,000	-15,000	-11,000	-11,000	-4,000	-4,000	-4,000	-4,000	-5,000	-5,000	-3,000	-3,000
U.S. Government life insurance	0	0	0	0	0	0	0	0	0	0	0	0
Subtotal, Intragovernmental transactions	-17,000	-17,000	-13,000	-13,000	-16,000	-16,000	-8,000	-8,000	-7,000	-7,000	-5,000	-5,000
Total, Mandatory Programs	19,424,846	19,424,846	18,869,439	18,869,439	21,128,966	20,791,249	21,401,132	21,401,132	21,690,233	20,993,791	21,957,904	21,888,400
Total, Departmental Veterans Affairs	\$39,239,174	\$39,814,877	\$38,327,218	\$39,266,900	\$37,291,318	\$37,043,483	\$38,558,397	\$37,353,791	\$38,074,132	\$36,244,013	\$40,540,597	\$40,089,277

Questions from the Honorable G.V. (SONNY) Montgomery

Question 1: VBA greatly overestimated the number of GI Bill trainees for FY 96. What happened? What assumptions were originally made that proved to be inaccurate?

Answer: The estimates are developed using a cohort analysis (similar to that used for veterans who trained under the Vietnam-Era GI Bill) which is updated with the most current available data. The cohort analysis is an attempt to predict training patterns of past and future military separtees using the training pattern experienced to date. The cohort estimates are continually adjusted to account for the difference between the actual and estimated number of trainees the cohort generates. The original estimate was based on 1994 actual data while the revised estimate used 1995 data. It is difficult to predict a daily or acceleration of entry into training.

There was no variation in assumptions that were originally made that proved to be inaccurate. Rather the variation results from data input into the cohort model. This data, which includes historical usage rate data, current separation data for future year military losses, and current eligible population, is continuously adjusted. We note that the revised 1996 trainee estimates show chapter 30 veterans declining 19 percent while servicepersons increased 22 percent from the original 1996 estimate which overall is 15 percent variance.

Question 2: I'm impressed with the information provided in this budget document. I am particularly interested in the objectives, performance indicators and milestones being developed by the Education Service.

How will the performance indicators be developed?

Answer: VBA has established core performance measures to provide a common view across program lines. They are: customer satisfaction, timeliness, accuracy, and unit cost. Each program is developing performance indicators to address and support these measures. In developing the performance indicators shown in the 1997 business plan, Education Service conducted several focus groups to determine what was important to our education beneficiaries. Items for which we have data (e.g., payment accuracy) required little development. Other items, (e.g., customer satisfaction) necessitate that we create a survey instrument that addresses those concerns for which data is not readily available.

Question: Will the timeliness and quality baselines be based on reality or fantasy? (2-53 goe)

Answer: Timeliness and quality indicators have been reported within and outside VBA for many years. The baselines reported in the business plan reflect 1995 results as to those factors.

Question: The 1995 Education and Training Assistance Customer Service Standards Project developed an impressive

list of customer service standards. Are these standards now being met?

Answer: Many of the standards are being met most of the time. For instance, 85 percent of all original education claims processed in 1995 were handled in 30 days or less. The majority of those that were not processed within that time frame resulted in a letter to the claimant seeking additional information. Other standards (e.g., resolving inquiries within three days) are not being met.

Question: If not, when do you expect that they will be met?

Answer: It is difficult to predict when, if ever, we will meet all of the standards all of the time. However, our customers have given us guidance on their expectations and we are going to respond by attempting to meet those standards. We will seek resources for initiatives we believe will improve our performance in the eyes of our customers. Furthermore, we will survey them periodically to determine how they think we are performing.

Question: How, specifically, will you provide education-related information to individuals when they enter service, while they are on active duty, and at the time of separation?

Answer: In cooperation with the Department of Defense (DoD), a video presentation is being prepared to introduce recruits to the Montgomery G.I. Bill. In the past, new enlistees have received some information on the program at the time they were asked to enroll or decline to participate. Our focus groups revealed that the information was not always consistent. The video will provide more information in a consistent, uniform manner.

Transition assistance is the primary forum for disseminating Montgomery G.I. Bill information at the time of separation. VA participation has been warmly received for the abundance of information available.

While the individuals are on active duty, Education Service Officers are available to provide information and assistance on education and training opportunities. In addition, we will begin working with DoD personnel to provide specific information on the Montgomery G.I. Bill to service persons shortly after their MGIB pay reductions have ended. This will highlight the value of their benefit and emphasize the requirements to retain eligibility.

Question: Have formal agreements or MOUs been developed with DoD and the individual services? (2-83 goe)

Answer: No formal agreement or MOU has been necessary. DoD officials work closely with us to keep service members apprised of their benefits.

Question: Reader Focused Writing is a good idea. The budget mentioned that 40 Education letters were revised in 1995. I'd appreciate it if you would provide me with 7 or 8

examples - the "before" and "after" letters, please. (2-57 GOE)

Answer: We are providing nine examples (attached). The "after" letter is stapled behind the "before" letter.

Question 4: I'm pleased to see the recommendation to replace the chapter 1606 payment system. Just to clarify, is the funding necessary to accomplish this goal included in the President's budget request? (2-61 goe)

Answer: Yes. About \$1.2 million is sought for 1997.

Question 5: I'd appreciate a further description of the "activity based costing" model. I don't fully understand the meaning of the sentence, "This measure will be used in decisions to permanently reduce cost without sacrificing customer satisfaction." Could you give me some examples of what you anticipate finding and what resulting actions could be? (2-72 goe)

Answer: Activity based costing will allow VA to examine all tasks and activities performed in support of administering the Educational Assistance Program. Those which are duplicative or unnecessarily redundant could be eliminated, thereby reducing costs without sacrificing customer service. Activities which do not add value to the administration of the program could be removed as well. This project is not far enough developed to provide specific examples at this time.

Question 6: In the section entitled, "Impact of VBA Cross-Cutting Initiatives", the subsection regarding education improvement states, "Simplify education and training benefits and their administration to create a more understandable and less burdensome program.

I'd appreciate more specificity. How do you propose to "simplify" education benefits?

Answer: This process has been ongoing since the Education Commission completed its work several years ago. Our goal is to seek uniformity of program provisions where appropriate. For example, independent study courses were treated less favorably than traditional residence courses for payment purposes. Recent legislation now treats both types of course credit equally.

Question: Will legislative action be required to accomplish this goal?

Answer: Within VA, we will attempt to determine which simplifications require legislative action and submit them through the legislative proposal process as we have done in the past. There may be other opportunities to simplify processing through procedural or regulatory changes. As they are identified, we will act.

Question: If so, what legislative recommendations will you be making? (2-76 goe)

Answer: We have no specific legislative recommendations to make at this time.

Question 7: When will the Benefits Information Center be fully operational? Is funding for this Center included in the President's FY 1997 budget? (2-77 goe)

Answer: VBA is establishing a prototype Benefits Information Center at the St. Paul regional office. Initially, the Information Center will service telephone inquiries from customers who reside in Central Area states. These telephone calls would otherwise be blocked from gaining access to their designated regional office because of the large volume of calls on the network. Current plans call for the Information Center to be fully operational by the first quarter of 1997. Expansion of the Information Center concept to other geographic areas will be determined based on the results of the Central Area test.

Question 8: You mention DoD's Joint Personnel Records Imaging Group. Will this system link with the optical disk procedures now being used in the St. Louis Regional Office? (2-78 goe)

Answer: The St. Louis imaging system will not be directly linked initially with the DoD system, but is being designed so that VBA and DoD systems are capable of being linked. The DoD imaging environment consists of multiple systems and technology. The critical factor is the exchange of data between these varying systems and VBA. The St. Louis imaging environment, procedurally and technically, will be able to utilize common data from a variety of sources, including data transferred from DoD's personnel records.

Question 9: You note that the MGIB basic benefits cost represents an average number of training months of 6 for veterans. Any idea why this average isn't higher? (1-27 BP)

Answer: According to 38CFR 21.4200 (b) (1) a normal academic school year is between 7 months and 9 months. Not all veterans, however, train during the entire fiscal year or academic school year. Thus, 6 months represents the average training time during the fiscal year.

Question 10: You note that in developing the Housing Loan Business Plan, you assume that GNMA will continue to provide a healthy secondary market for VA guaranteed loans. Is there reason to believe GNMA is having difficulties? (2-88 goe)

Answer: There is no reason to believe GNMA is having difficulties or will have any difficulties.

Question 11: What is OIT? (2-102 goe)

Answer: "OIT" is the abbreviation for Office of Information Technology. This is the office responsible for management of VBA's information systems.

Question 12: The budget document says that funds associated with initiatives which will result in cost

savings are included in the Management Direction resource request. What does this mean? (2-107 GOE)

Answer: The details on each restructuring initiative are included in the appropriate budget chapter; however, the total net cost/savings are reflected in the Management Direction request.

Question 13: The budget mentions that development of the new property management automated system has been suspended since 1994 due to funding constraints. What cost savings would result from full implementation of this system? (2-107 GOE)

Answer: In 1988, a cost benefit analysis was done for implementation of the Construction and Valuation System (CAV), the Loan Production System (LP), and the Property Management System (PM). The CAV and LP systems have been fully developed and are operational at field stations.

The contractor has estimated that it will take \$1.7 million to complete development of the Property Management System. We estimate it will cost an additional \$200,000 for training and implementation costs. These do not include workstations or other hardware costs. However, they are already budgeted for in the replacement of Wang terminals. Implementation will be focused on field stations with the highest property inventory. Currently, 70 percent of the inventory is concentrated in 9 states. Therefore, the pay back on investment can be realized faster than most systems implementations. We estimate the first year savings at approximately \$15 million. After the first year, the PM system would save \$17.3 million annually between VA and Treasury.

Question 14: You note that few Loan Guaranty employees will participate in available training programs because of limited funds. Can you quantify in some way the increased costs that result from poorly trained employees? (2-109 GOE)

Answer: Although it is extremely difficult to demonstrate a direct cause and effect relationship between poor training of employees and increased costs, it is obvious that poorly trained employees are more likely to make errors, which can be extremely costly to the government, and problematic to their customers. Business, government entities, and the military have found that training is worth the investment.

Question 15: Mr. Secretary, we established a minimum employment level for VA in 1994 of 224,000 FTE. How many employees does this budget support? Why doesn't it support the 224,000 level?

Answer: For FY 1997, the funding requested in the budget will support 212,202 non-exempt FTE. This level of employment is based on the realignment in employment for VHA and VBA as provided for in their restructuring plans.

It should be noted, that this employment floor limits VA's ability to operate in the most effective and efficient

manner. VA, as well as all agencies, must be allowed to determine the employment level which can be funded by an appropriation while allowing VA to provide the maximum level of services to veterans and their dependents.

Question 16: Mr. Secretary, can you explain "gainsharing?" Isn't it the same thing that this Committee has reported on at least two occasions? How can we be certain that additional amounts earned through gainsharing won't simply be deducted from your appropriations request?

Answer: Gainsharing is a concept that allows VA to retain a portion of medical care cost recoveries to apply to our direct health care operation. Because gainsharing can supplement a facility's budget, we believe it will serve as a market oriented incentive, encouraging medical centers to refine and improve collections. In fact, it would provide incentive for the entire medical center staff, such as doctors, nurses, and administrative officers, to improve collections to gain additional resources for their respective medical center.

The proposal contained in the President's FY 1997 Budget is slightly different from the version contained in REGO II legislation. Gainsharing under REGO II would have allowed the VA to retain 25 percent of the third party recoveries above the baseline contained in the President's Budget for each year. The current legislative proposal allows VA to retain from third party recoveries 100 percent of collections from Category C veterans and 25 percent of collections from Category A above a certain threshold. Currently the Office of Management and Budget (OMB) and VA are working on a formula to determine that threshold. It is anticipated that agreement on a threshold will be completed by mid-year budget review due in July.

During the budget process, VA is required to make estimates on the anticipated amounts that will be recovered from gainsharing after the baseline. It is unlikely that the administration would offset the appropriation request with gainsharing recoveries as doing so would defeat the purpose of the gainsharing proposal and would reduce the incentive for medical centers to obtain reimbursements. It should be noted that it is difficult to project gainsharing recoveries because the effect of the proposal is based on human performance incentives.

Question 17: Mr. Secretary, GAO has identified conflicts between VBA, VHA, and the Board of Veterans Appeals as a source of delay in deciding original claims for benefits as well as appeals. Given your background and understanding of this system, don't you think your personal involvement might quickly straighten out a few of these problems? For instance, "inadequate medical examinations" are often cited as a problem, but do you know what Dr. Kizer's people are doing to address this problem?

Answer: "Inadequate medical examinations" are a small part of the compensation and pension examinations that are returned as "incomplete" to the VBA. In a recent VBA study

found 3.28 percent of the examinations (805 of 24,534) were determined to be "inadequate."

The Secretary, the Deputy Secretary, and the Under Secretary for Health all place a high priority on decreasing even this small number of exams to the lowest level possible. The Under Secretary for Health has developed, as one of the performance criteria for the Network Directors, VHA Senior Executives and Title 38 Equivalents that "To be considered fully successful, the percent of C&P examinations found to be sufficient for rating purposes will be at least 97 percent per month. To be considered exceptional, the percent of C&P examinations found sufficient for claims rating purposes will be greater than 99 percent per month."

The Cleveland Employee Education Center of the Employee Education Network is developing an orientation and training program for Compensation and Pension examiners in the Department of Veteran Affairs. They are working with Headquarters staff, field staff and C&P examiners to develop and distribute a CD-ROM and video and other training materials to assure that examiners have the most up-to-date information on producing sufficient compensation and pension examinations for our veterans.

Question 18: Secretary Brown, I traveled to Guilford Township, Ohio, Congressman Sherrod Brown's District, in July of 1994 to visit the proposed new national veterans cemetery site and offer my support for the project. The VA now owns the 273 acres of land and the master plan has been completed. At a minimum, \$1.258 million in design fund needs to be included in the FY 97 budget to stay on schedule. It is my hope that there is a way to fund the design of this project in the FY 97 budget.

Answer: In the fiscal year 1996 appropriation bill, \$1,000,000 in Design Funds are provided to the National Cemetery System, but are not designated for any particular project. These funds, along with unexpended prior year funds, may be available to complete the design phase of the Cleveland area national cemetery.

Congressman Montgomery
#3

Dear :

We regret that we are unable to increase your benefits under the Montgomery G.I. Bill based upon the information furnished on your recently submitted verification of enrollment.

Please request the certifying official of your school to submit certification of the increase in your enrollment from (Number of Hours) hours to (Number of Hours) on (Date).

This information should be furnished as soon as possible. In any case, it must be received in the Department of Veterans Affairs within one year of the date of this letter; otherwise, increased benefits, if entitlement is established, may not be payable. VA may waive the one-year time limit if you can show good cause why you could not meet it.

This evidence should be submitted directly to:

VA Regional Office
P.O. Box 66830
St. Louis, MO 63166-6830

Sincerely yours,

P. K. COURTNEY
Adjudication Officer

2130-19
(08/92)



DEPARTMENT OF VETERANS AFFAIRS
 Department of Veterans Affairs
 VA Regional Office
 P.O. Box 8888
 Muskogee OK 74402-8888

MR TOM T VETERAN
 1 BLOCK
 ANYWHERE, US 99999

In Reply Refer To: 351/22
 CSS 123-44-5678
 VETERAN, Tom T.

Dear Mr. Veteran

We can't increase your Montgomery G. I. Bill payments based on your monthly verification form.

What We Need

Please ask your school's certifying official to send us a VA Form 22-1999b, Notice of Change in Student Status, showing the increase in your enrollment from 2 hours to 4 hours on January 1, 1996.

When We Need It

Please send us the information within 30 days. We cannot consider information received more than one year after the date of this letter. (See the enclosure, **Effective Dates of Payment.**)

If You Need Help

If you need help, call your **local** VA office. The number is listed in the telephone book under U.S. Government, Department of Veterans Affairs, or Veterans Administration. If you must call VA long distance, in the United States, dial toll-free, **1-800-827-1000**. If you are hearing impaired, in the United States, dial toll-free, **1-800-829-4833**.

Sincerely yours,

Carol O'Dell

Carol O'Dell
 Adjudication Officer

Enclosure(s): Effective Dates Of Payment

EFFECTIVE DATES OF PAYMENT**Enrollment or Reenrollment**

When you enroll or reenroll in school, we can pay benefits from the latest of the following dates:

- the date your school certifies that you began training

OR

- the date one year earlier than
☒ the date we receive your application

OR

- ☒ the date we receive the enrollment information from your school

Increased Enrollment

We can pay increased benefits from the latest of the following dates:

- the date you increased your training

OR

- the date one year earlier than the date we receive the enrollment information from your school

CAUTION: The effective dates mentioned above *cannot* be extended even if we request additional information from you.

Dear :

On (Date) , we asked you to have your school's certifying official submit formal verification of your increase in credit hours. Since we have not received this evidence, additional benefits are not payable.

We again ask that you submit this information as soon as possible. If it is not received by the Department of Veterans Affairs within one year from the date of our original request, benefits may not be paid for any period prior to its receipt. We may waive the one-year time limit if you can show good cause why you could not meet it.

Sincerely yours,

P. K. COURTNEY
Adjudication Officer

Enclosure: VA Form 4107

2130-24
(08/92)



DEPARTMENT OF VETERANS AFFAIRS
Department of Veterans Affairs
VA Regional Office
P.O. Box 8888
Muskogee OK 74402-8888

MR. TOM T. VETERAN
1 BLOCK
ANYWHERE, US 99999

In Reply Refer To: 351/22
CSS 123-44-5678
VETERAN, Tom T.

Dear Mr. Veteran:

On January 1, 1995 we asked you to have your school's certifying official verify your increase in credit hours on February 1, 1995. We cannot increase your payments until we receive this information.

What We Need

Please ask your school's certifying official to send us a VA Form 22-1999b, Notice of Change in Student Status, showing the increase in your enrollment from 2 hours to 4 hours on March 1, 1995.

When We Need It

Please send us the information within 30 days. We cannot consider information received more than one year after January 1, 1995, the date of our earlier letter. (See the enclosure, **Effective Dates of Payment.**)

If You Think We're Wrong

If you think we're wrong, write and tell us why. The enclosed form explains your rights.

If You Need Help

If you need help, call your **local** VA office. The number is listed in the telephone book under U.S. Government, Department of Veterans Affairs, or Veterans Administration. If you must call VA long distance, in the United States, dial toll-free, **1-800-827-1000**. If you are hearing impaired, in the United States, dial toll-free, **1-800-829-4833**.

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CSS 123-44-5678
Veteran, Tom T.

Sincerely yours,

Carol O'Dell

Carol O'Dell
Adjudication Officer

Enclosure(s): Effective Dates Of Payment
VA Form 4107

EFFECTIVE DATES OF PAYMENT**Enrollment or Reenrollment**

We can pay benefits from the latest of the following dates:

- the date your school certifies that you began training

OR

- the date one year earlier than

☒ the date we receive your application

OR

☒ the date we receive the enrollment information from your school

Increased Enrollment

We can pay increased benefits from the latest of the following dates:

- the date you increased your training

OR

- the date one year earlier than the date we receive the enrollment information from your school

CAUTION: The effective dates mentioned above *cannot* be extended even if we request additional information from you.



Department of Veterans Affairs

NOTICE OF PROCEDURAL AND APPELLATE RIGHTS**IF YOU DO NOT AGREE WITH THIS ACTION**

We have based our determination on the evidence of record and the applicable law. If you do not agree with the action we have taken, you have two choices: (1) You may reopen your claim by sending VA new and material evidence which we have not considered. (2) You may appeal to the Board of Veterans' Appeals (BVA).

REOPENING YOUR CLAIM

NEW EVIDENCE. You may give us evidence we do not have to strengthen your claim. Testimony may be that kind of evidence. To have a hearing before regional office personnel, see the instructions below. It is in your interest to send us any new evidence as soon as possible. We will consider it and let you know whether it changes our determination. You may also submit additional evidence, with some time limitations, if you appeal to the BVA.

HEARINGS BEFORE REGIONAL OFFICE PERSONNEL. We do not require you to have a hearing. You may testify in your own behalf before regional office personnel. You may also bring witnesses. To request a hearing before regional office personnel, send a letter to this office. We will arrange a time and place for the hearing. You can request a hearing before regional office personnel at any time. VA will furnish the hearing room, provide hearing officials and make a transcript of the hearing. The transcript will be placed in your claims folder. Regional office personnel will decide, based on the testimony and other evidence, whether your claim is successfully reopened and whether it can be granted. If your claim remains denied, you may appeal to the BVA. The record sent to the BVA will include the transcript of the hearing. If you appeal our decision, you may also request a hearing before the BVA. See Your Appellate Rights below. You may have a hearing before both regional office personnel and the BVA.

YOUR APPELLATE RIGHTS

This notice summarizes your procedural and appellate rights. For complete information, refer to the Rules of Practice of the Board of Veterans' Appeals (38 CFR Part 20).

APPEAL OF THIS DETERMINATION. You may appeal our determination to the BVA. To appeal, send this office a Notice of Disagreement within 1 year from the date of the letter which accompanies this form. A Notice of Disagreement is a letter telling this office that you wish to appeal. If more than one benefit is involved, you should identify the benefit or benefits for which you are appealing. After you have filed a Notice of Disagreement, we will send you a Statement of the Case containing the facts, the applicable laws and regulations, and the reasons for our determination.

HEARINGS. You may still have a hearing before regional office personnel even after you file a Notice of Disagreement. If you want a hearing before regional office personnel, see the instructions above. In addition, you may have a hearing before the BVA after you appeal the determination contained in the letter which accompanies this form. The BVA does not require a hearing. You may present evidence and argument, and bring witnesses. The testimony will be a part of the record. VA will set the time and date of the hearing, provide the hearing room and hearing officials, and record the hearing. VA cannot pay any other expenses of a hearing. The BVA holds hearings in Washington, D.C., or at a VA regional office. If you request a hearing before the BVA in Washington, D.C., the BVA will tell you the time and date of the hearing. To request a hearing before the BVA at a regional office, write to this office. We fill these requests in the order of receipt. This office can tell you the expected waiting period for a BVA hearing at this office.

REPRESENTATION. An accredited representative of a recognized service organization may represent you without charge. An agent or attorney, such as a legal aid attorney or one in private practice, may also represent you. VA cannot pay fees of agents or attorneys.

ATTORNEY OR AGENT FEE LIMITATION. Except in loan cases, no fee may be charged, allowed, or paid for services provided by agents or attorneys before the BVA first makes a final decision in your claim. After the first final BVA decision in your claim, an attorney or accredited agent may charge you a fee under certain circumstances for representing you before VA, including the BVA, or the United States Court of Veterans Appeals. An attorney or agent may charge you a reasonable fee in writing in connection with any proceeding in a case arising out of a loan made, guaranteed, or insured under chapter 37 of title 38, United States Code for services provided after October 9, 1992. For more information, refer to Section 5904, Title 38, United States Code. If an attorney or accredited agent represents you before VA, a copy of any agreement between you and the attorney or accredited agent about the payment of the attorney's or agent's fees must be filed at the following address: Counsel to the Chairman (01C3), Board of Veterans' Appeals, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

APPEAL OF BVA DECISION. You may appeal a final BVA decision to the United States Court of Veterans Appeals (the Court). You must file a Notice of Appeal with the Clerk of the Court within 120 days from the date on which the BVA mailed the notice of the BVA decision.

INCOMPLETE "I" LETTER

_____ has reported you received an I (Incomplete) grade for _____ hours for the term beginning _____, and ending _____. You have 1 year from the end of the semester to complete your course and have this grade changed to a punitive (letter grade). If you complete the course and the grade is changed, you should have the school notify us of the change promptly. If you have not had the grade changed by _____, it may be necessary for us to reduce your educational benefits for the entire period.

At the end of this 1-year period, if we have not received notice the grade has been changed, we will write you asking for mitigating circumstances why you did not finish the course.

Sincerely yours,

G. WILLIAMS
Adjudication Officer

2130/--- --



DEPARTMENT OF VETERANS AFFAIRS

Department of Veterans Affairs
VA Regional Office
P.O. Box 8888
Muskogee OK 74402-8888

MR. TOM T. VETERAN
1 BLOCK
ANYWHERE, US 99999

In Reply Refer To: 351/22
CSS 123-44-5678
VETERAN, Tom T.

Dear Mr. Veteran:

Our records show that you received an incomplete grade for 3 hours for the semester beginning on January 1, 1996 and ending on July 4, 1996.

What Your School Must Do

If the incomplete grade is changed, please ask your school official to tell us.

What We Will Do

If the incomplete grade is not changed by January 1, 1997, we will ask you to send us a statement explaining the reason(s) why you did not complete the course(s).

We will stop payment for the course from the first day of the term

- ⌚ If we do not accept your reasons why you did not complete the course

OR

- ⌚ If we do not receive information that your grade has been changed within one year from the date of this letter.

This will create an overpayment. You will be responsible for repayment of the debt.

What We Can't Pay For

We can't pay for any grades not used to compute your grade point average. (See the enclosure, **Grades You Receive**, for examples.)

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CSS 123-44-5678
Veteran, Tom T.

What We Can Pay For

We can pay for any grades used to compute your grade point average. (See the enclosure, **Grades You Receive**, for examples.)

If You Need Help

If you need help, call your **local** VA office. The number is listed in the telephone book under U.S. Government, Department of Veterans Affairs, or Veterans Administration. If you must call VA long distance, in the United States, dial toll-free, **1-800-827-1000**. If you are hearing impaired, in the United States, dial toll-free, **1-800-829-4833**.

Sincerely yours,



Carol O'Dell
Adjudication Officer

Enclosure(s): **Grades You Receive**

GRADES YOU RECEIVE

If you receive a grade that does not count toward graduation, you may have to repay **all** benefits for the course(s). You should check your school's grading policy with the registrar or the office handling our paperwork.

The following are common examples of grades **not used** to compute graduation requirements:

- An "I" grade for an incomplete that is not made up during the time period required by your school or within 1 year, whichever is earlier
- A "W" or other grade for withdrawing
- An "AU" or other grade for auditing
- Any grade your school does not use to compute the GPA (grade point average) or its equivalent

The following are common examples of grades **used** to compute graduation requirements:

- A grade that grants credit toward graduation.
Example, A, B, C, D, S (for Satisfactory),
or P or Pass (on a Pass/Fail system)
- A grade that does not grant credit toward graduation but is used to compute the GPA.
Example, E, F, U (for Unsatisfactory),
or F or Fail (on a Pass/Fail system)

NOTE: We use the word "**punitive**" to describe grades **used** to compute graduation requirements. We use the word "**non-punitive**" to describe grades **not used** to compute graduation requirements.

DEV LTR-LEFT SELECTED RESERVE

We have received information you left the Selected Reserve on _____.

Furnish the original or a certified copy of your discharge document which shows the date you were released from the Selected Reserve and the reason for your separation. If you do not have your discharge document, furnish a statement from your Commanding Officer or designated representative which verifies the date you were released and the reason. If you have transferred to another Selected Reserve unit, furnish copies of your enlistment agreement which shows your date of enlistment and the length of your commitment.

This information should be furnished as soon as possible. If it is not received within 30 days from the date of this letter, your educational assistance will be

-----OPTIONS-----
1 reduced to \$ _____ monthly effective _____.

2 terminated _____, because your eligibility to Chapter 30 benefits was based solely on your obligation to satisfactorily participate for at least 4 years in the Selected Reserve.

-----OPTIONAL-----
This change will result in an overpayment of benefits.

Sincerely yours,

G. WILLIAMS
Adjudication Officer

2130/--- --



DEPARTMENT OF VETERANS AFFAIRS
Department of Veterans Affairs
VA Regional Office
P.O. Box 8888
Muskogee OK 74402-8888

MR. TOM T. VETERAN
1 BLOCK
ANYWHERE, US 99999

In Reply Refer To: 351/22
CSS 123-44-5678
VETERAN, Tom T.

Dear Mr. Veteran:

Our records show that you left the Selected Reserve on January 1, 1996.

What We Need

Please send us **one** of the following:

- ⌚ An original or copy of your discharge document showing the date and reason you left the Selected Reserve

OR

- ⌚ A statement from your Commanding Officer showing the date and reason for your release

OR

- ⌚ If you transferred to a new Selected Reserve unit, a copy of your new enlistment agreement showing the date of your enlistment and the length of your commitment

When We Need It

Please send us the information within 30 days. We cannot consider information received more than one year after the date of this letter. We may extend this time limit if you show a good reason why you could not meet it.

What We Will Do

If we do not receive the information within 30 days, we will stop your payments on January 1, 1996. We must do this because your eligibility to benefits was based on your

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CSS 123-44-5678
Veteran, Tom T.

satisfactory participation in the Selected Reserve for 4 years. This change may result in an overpayment that you **must** repay

If You Need Help

If you need help, call your **local** VA office. The number is listed in the telephone book under U.S. Government, Department of Veterans Affairs, or Veterans Administration. If you must call VA long distance, in the United States, dial toll-free, **1-800-827-1000**. If you are hearing impaired, in the United States, dial toll-free, **1-800-829-4833**.

Sincerely yours,

Carol O'Dell

Carol O'Dell
Adjudication Officer

Dear :

Since you have not certified your enrollment status during the term which began _____, we plan to retroactively terminate your benefits. If you did attend for the period from _____ through _____, you should submit the enclosed certification form within 30 days. If you are still in school please confirm the number of credit hours you are taking. If you changed your hours please tell us the date you changed and the number of hours you are now taking. If you stopped attending please tell us the date you last attended.

If the change in enrollment was due to circumstances beyond your control you should tell us. Be as specific as possible. Explain what interfered with your enrollment, give important dates (such as the beginning and ending dates of an illness), and state how your enrollment was affected. In most cases, we will be able to accept your reasons only if you submit supporting evidence (such as a doctor's certification to verify an illness, a statement from your employer to confirm a required change in work schedule, etc.).

If you show sufficient grounds for making this enrollment change, any necessary reduction or termination of your award will be effective no earlier than the date your enrollment status actually changed. If your evidence does not establish that the change was caused by unanticipated circumstances beyond your control, or if you do not respond within 30 days, your award must be reduced to the rate of \$0.00 per month effective the first day of the term in which the change took place. This will create an overpayment which you will have to repay.

Be sure to report any reduction in credit or clock hours to your Registrar's office if you have not already done so. This will insure proper certification of attendance for VA benefits.

Sincerely yours,

F. K. COURTNEY
Adjudication Officer

Enclosures: VA Form 21-4138
VA Form 22-8979
Form Letter 21-899 Attachment

Dear :

Since you have not submitted certification of your enrollment during the term which began (Date), we have terminated your award of Chapter 30 education benefits. We assume that you did not attend as anticipated.

If the change was due to unavoidable events beyond your control, please notify us as soon as possible. When giving the reasons for your enrollment change, be as specific as possible. Explain what interfered with your enrollment, give important dates (such as the beginning and ending dates of an illness), and state how your enrollment was affected. In most cases, we will be able to accept your reasons only if you submit supporting evidence (such as a doctor's certification to verify an illness, a statement from your employer to confirm a required change in work schedule, etc.).

Although you should respond to this letter within 30 days, we must inform you that the law will not allow us to consider your reasons if you do not submit them within one year from the date of this letter. We may waive the one-year time limit if you can show good cause why you could not meet it.

If you did attend during that term, you should have your school recertify your attendance so we can restore any benefits to which you may be entitled.

Sincerely yours,

P. K. COURTNEY
Adjudication Officer

Enclosures: VA Form 21-4138
VA Form 21-4107
Form Letter 21-899 Attachment

2130-23
(08/92)



DEPARTMENT OF VETERANS AFFAIRS
Department of Veterans Affairs
VA Regional Office
P.O. Box 8888
Muskogee OK 74402-8888

MR. TOM T. VETERAN
1 BLOCK
ANTWHERE, US 99999

In Reply Refer To: 351/22
CSS 123-44-5678
VETERAN, Tom T.

Dear Mr. Veteran:

We stopped your payments on January 1, 1996 because you did not verify your attendance for the term beginning October 1, 1995. We assumed that you did not attend school or that you withdrew.

What You Should Do

Read the enclosure, **Changes in Your Enrollment**

AND

Complete and return the enclosure, **My Statement**

When We Need It

Please send us the information within 30 days. We cannot consider information received more than one year after the date of this letter. We may extend this time limit if you show a good reason why you could not meet it.

If You Think We're Wrong

If you think we're wrong, write and tell us why. The enclosed form explains your rights.

If You Need Help

If you need help, call your **local** VA office. The number is listed in the telephone book under U.S. Government, Department of Veterans Affairs, or Veterans Administration. If you must call VA long distance, in the United States, dial toll-free, **1-800-827-1000**. If you are hearing impaired, in the United States, dial toll-free, **1-800-829-4833**.

2

CSS 123-44-5678
Veteran, Tom T.

Sincerely yours,

Carol O'Dell

Carol O'Dell
Adjudication Officer

Enclosure(s): Changes In Your Enrollment
My Statement
VA Form 4107

CHANGES IN YOUR ENROLLMENT

If You Withdraw

If you withdraw from one or more courses after the end of your school's drop period and receive grades that do not count toward graduation requirements, you may have to repay **all** benefits for the course(s).

You may not have to repay the benefits if you show that the change was due to reasons beyond your control. The reasons must be unavoidable and unexpected events that directly interfered with your enrollment.

Examples of reasons we may accept are:

- Extended illness
- Severe illness or death in your immediate family
- Unscheduled changes in your employment
- Lack of child care

Examples of reasons we may not accept are:

- Withdrawal to avoid a failing grade
- Dislike of the instructor
- Too many courses attempted

Note: We may ask you to furnish information to support your reason for a change. If a serious injury or illness caused the change, obtain your doctor's statement. If a change in employment caused the change, obtain your employer's statement.

We Can Excuse

The first time you withdraw from up to 6 credit hours, we will excuse the withdrawal and pay benefits for the period attended. **Remember: This only applies to your first withdrawal.**

Grades You Receive

If you receive a grade(s) that does not count toward graduation, you may have to repay **all** benefits for the course(s). You should check your school's grading policy with the registrar or office handling our paperwork. Common examples of grades not used to compute graduation requirements are:

- An "I" grade for an incomplete which is not made up during the time period required by your school or within 1 year from receipt, whichever is earlier
- A "W" or other grade for withdrawing
- An "AU" or other grade for auditing
- Any grade your school does not use to compute the GPA (grade point average) or its equivalent

Tom T. Veteran
123-44-5678

Department of Veterans Affairs
P.O. Box 8888
Muskogee, OK 74402-8888

MY STATEMENT

Please check all boxes that apply.

☐ I did not change my enrollment or withdraw from training. I was enrolled in (number of credit/clock hours) _____ from (month, day, year) _____ to (month, day, year) _____.

☐ I withdrew from training on _____. The reason is _____

(Please use the back if necessary.)

☐ I reduced my training from (number of credit/clock hours) _____ to (number of credit/clock hours) _____ on (month, day, year.) _____. The reason is _____

(Please use the back if necessary.)

Signature _____
Date _____



Department of Veterans Affairs

NOTICE OF PROCEDURAL AND APPELLATE RIGHTS**IF YOU DO NOT AGREE WITH THIS ACTION**

We have based our determination on the evidence of record and the applicable law. If you do not agree with the action we have taken, you have two choices. (1) You may reopen your claim by sending VA new and material evidence which we have not considered. (2) You may appeal to the Board of Veterans' Appeals (BVA).

REOPENING YOUR CLAIM

NEW EVIDENCE. You may give us evidence we do not have to strengthen your claim. Testimony may be that kind of evidence. To have a hearing before regional office personnel, see the instructions below. It is in your interest to send us any new evidence as soon as possible. We will consider it and let you know whether it changes our determination. You may also submit additional evidence, with some time limitations, if you appeal to the BVA.

HEARINGS BEFORE REGIONAL OFFICE PERSONNEL. We do not require you to have a hearing. You may testify in your own behalf before regional office personnel. You may also bring witnesses. To request a hearing before regional office personnel, send a letter to this office. We will arrange a time and place for the hearing. You can request a hearing before regional office personnel at any time. VA will furnish the hearing room, provide hearing officials and make a transcript of the hearing. The transcript will be placed in your claims folder. Regional office personnel will decide, based on the testimony and other evidence, whether your claim is successfully reopened and whether it can be granted. If your claim remains denied, you may appeal to the BVA. The record sent to the BVA will include the transcript of the hearing. If you appeal our decision, you may also request a hearing before the BVA. See Your Appellate Rights below. You may have a hearing before both regional office personnel and the BVA.

YOUR APPELLATE RIGHTS

This notice summarizes your procedural and appellate rights. For complete information, refer to the Rules of Practice of the Board of Veterans' Appeals (38 CFR Part 20).

APPEAL OF THIS DETERMINATION. You may appeal our determination to the BVA. To appeal, send this office a Notice of Disagreement within 1 year from the date of the letter which accompanies this form. A Notice of Disagreement is a letter telling this office that you wish to appeal. If more than one benefit is involved, you should identify the benefit or benefits for which you are appealing. After you have filed a Notice of Disagreement, we will send you a Statement of the Case containing the facts, the applicable laws and regulations, and the reasons for our determination.

HEARINGS. You may still have a hearing before regional office personnel even after you file a Notice of Disagreement. If you want a hearing before regional office personnel, see the instructions above. In addition, you may have a hearing before the BVA after you appeal the determination contained in the letter which accompanies this form. The BVA does not require a hearing. You may present evidence and argument, and bring witnesses. The testimony will be a part of the record. VA will set the time and date of the hearing, provide the hearing room and hearing officials, and record the hearing. VA cannot pay any other expenses of a hearing. The BVA holds hearings in Washington, D.C., or at a VA regional office. If you request a hearing before the BVA in Washington, D.C., the BVA will tell you the time and date of the hearing. To request a hearing before the BVA at a regional office, write to this office. We fill these requests in the order of receipt. This office can tell you the expected waiting period for a BVA hearing at this office.

REPRESENTATION. An accredited representative of a recognized service organization may represent you without charge. An agent or attorney, such as a legal aid attorney or one in private practice, may also represent you. VA cannot pay fees of agents or attorneys.

ATTORNEY OR AGENT FEE LIMITATION. Except in loan cases, no fee may be charged, allowed, or paid for services provided by agents or attorneys before the BVA first makes a final decision in your claim. After the first final BVA decision in your claim, an attorney or accredited agent may charge you a fee under certain circumstances for representing you before VA, including the BVA, or the United States Court of Veterans Appeals. An attorney or agent may charge you a reasonable fee in writing in connection with any proceeding in a case arising out of a loan made, guaranteed, or insured under chapter 37 of title 38, United States Code for services provided after October 9, 1992. For more information, refer to Section 5904, Title 38, United States Code. If an attorney or accredited agent represents you before VA, a copy of any agreement between you and the attorney or accredited agent about the payment of the attorney's or agent's fees must be filed at the following address: Counsel to the Chairman (01C3), Board of Veterans' Appeals, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

APPEAL OF BVA DECISION. You may appeal a final BVA decision to the United States Court of Veterans Appeals (the Court). You must file a Notice of Appeal with the Clerk of the Court within 120 days from the date on which the BVA mailed the notice of the BVA decision.

EXCESS UNITS

Department of Veterans Affairs (VA) can only pay for courses required for your degree objective. Our records show

-----OPTIONS-----

- A as of _____, you should have completed requirements for an associate degree.
- B as of _____, you have earned the maximum units transferable to a 4-year school.
-

Before we can authorize education benefits after _____, we need a statement from your school which explains why you need additional units to achieve your degree objective. Please have a school official furnish the following information.

- a. Credit allowed for your previous training, including any credit granted for your military service;
- b. Your current and final objective and a list of all courses still required to reach your current objective. The school should also advise why each additional course is required (e.g. required to remedy a grade point deficiency, required for transfer, etc.);
- c. An amended enrollment certification which shows the specific courses you are enrolled in each term. Certifications for additional terms should also show the names of specific courses for each term certified. Since payment may be made only for courses required for your degree objective, you should enroll in and have your school certify only required courses.

-----OPTIONS-----

- A (IF NO CLAIM FOR SUBSEQUENT TERM PENDING)
The above requested information should be furnished as soon as possible. In any case, it must be received in the VA within 1 year from the date of this letter; otherwise, benefits, if entitlement is established, may not be paid prior to the date of its receipt.
- B (IF CLAIM FOR SUBSEQUENT TERM PENDING)
The above requested information should be furnished within 30 days. In any case, it must be received in the VA within 1 year from the date of this letter; otherwise, benefits, if entitlement is established, may not be paid prior to the date of its receipt.
-

Sincerely yours,

G. WILLIAMS
Adjudication Officer

2130/--- --



DEPARTMENT OF VETERANS AFFAIRS
 Department of Veterans Affairs
 VA Regional Office
 P.O. Box 8888
 Muskogee OK 74402-8888

MR. TOM T. VETERAN
 1 BLOCK
 ANYWHERE, US 99999

In Reply Refer To: 351/22
 CSS 123-44-5678
 VETERAN, Tom T.

Dear Mr. Veteran:

Our records show that you have taken enough credits to receive your associate's degree. As of January 1, 1996, you have taken 6 credits. Your school requires satisfactory completion of 3 hours for the degree.

CAUTION: We may not pay for any courses not required for your degree.

What We Need

Please ask your school's certifying official to send us:

- ① A statement showing why you need additional credits to graduate

AND

- ① A statement showing your current and final objectives

AND

- ① A list of courses you must still complete to reach your current objective

AND

- ① An amended enrollment certification showing the names of courses you are taking

IMPORTANT: Future enrollment certifications must show the name of each course you will be taking during that term.

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CSS 123-44-5678

Veteran, Tom T.

When We Need It

Please send us the information within 30 days. We cannot consider information received more than one year after the date of this letter. We may extend this time limit if you show a good reason why you could not meet it.

If You Need Help

If you need help, call your **local** VA office. The number is listed in the telephone book under U.S. Government, Department of Veterans Affairs, or Veterans Administration. If you must call VA long distance, in the United States, dial toll-free, **1-800-827-1000**. If you are hearing impaired, in the United States, dial toll-free, **1-800-829-4833**.

Sincerely yours,

Carol O'Dell

Carol O'Dell
Adjudication Officer

VA FORM LETTER 22-899

This letter regards the change in your enrollment status during the term which began _____. If the change was due to unavoidable events beyond your control, please notify us as soon as possible. Otherwise, you may be held responsible for an overpayment, or an additional overpayment of benefits.

When giving the reasons for your enrollment change, be as specific as possible. Explain what interfered with your enrollment, give important dates (such as the beginning and ending dates of an illness), and state how your enrollment was affected. In most cases, we will be able to accept your reason only if you submit supporting evidence (such as a doctor's certification to verify an illness, a statement from your employer to confirm a required change in work schedule, etc.).

If you show sufficient grounds for making this enrollment change, any necessary reduction or termination of your award will be effective no earlier than the date your enrollment status actually changed. If your evidence does not establish the change was caused by unanticipated circumstances beyond your control, or if you do not respond within 30 days, your award must be reduced to the rate of \$_____ per month effective the first day of the term in which the change took place.

-----OPTIONS-----

- 1 You withdrew from one or more (or all) courses on _____.
- 2 You received a grade for _____ course hours which will not be counted for graduation requirements.
- 3 Currently, your award has been reduced/terminated effective _____. You will receive a computer-generated letter with more details, including the amount of overpayment, if any.
- 4 Your educational assistance allowance has been suspended effective _____.
- 5 If you do not provide acceptable reasons for this course change, your check due on or about _____ may be reduced or not issued at all due to an additional overpayment.

6 FREE TEXT OPTIONAL PARAGRAPH

-----NON-CERTIFIED REDUCTION OPTIONAL PARAGRAPH-----

We are taking this action because you recently reported a reduction to or termination of school attendance.

It appears that you received non-punitive grades and that the change was made after your school's drop/add period. If you received punitive grades or made the change during the drop/add period, have the certifying official at your school submit formal notification to this office.

Be sure to report this reduction to your Registrar's office if you have not already done so. This will insure proper certification of attendance for VA benefits.

Sincerely yours,

G. WILLIAMS
Adjudication Officer

Enclosure(s)
VA Form 21-4138
VA Form 4107

2130/--- --

IMPORTANT NOTICE

The law prohibits VA payments for courses from which you withdraw, and for other courses for which your grade will not count toward graduation, unless such a change is warranted by unanticipated circumstances beyond your control.

Although you should respond to this letter within 30 days, we must inform you that the law (title 38, Code of Federal Regulations, section 21.4250(a)) will not allow us to consider your reasons if you do not submit them within 1 year from the date of this letter.

21.7139(b)

DUE PROCESS PROVISIONS

BASIC RIGHTS. If you do not provide evidence that the change in your enrollment status was due to unanticipated circumstances beyond your control, your award of educational assistance benefits must be reduced or terminated effective the first day of the term in which the change took place. You have certain basic rights you may exercise before a decision is made in your case. These rights consist of the right to submit (additional) evidence, the right to a hearing and the right to be represented.

PERSONAL HEARING. If you desire a personal hearing to present evidence or argument on any point of importance in your case, notify our office and we will arrange a time and place for the hearing. You may bring witnesses if you desire and their testimony will be entered into the record. The VA will furnish the hearing room, provide hearing officials, and prepare a transcript or summary of the proceedings. The VA cannot pay any other expenses of the hearing, since a personal hearing is held only upon your request.

REPRESENTATION. An accredited representative of a recognized service organization may represent you without charge. An agent or attorney, such as a legal aid attorney or one in private practice, may also represent you. VA cannot pay fees of agents or attorneys. If you desire representation, let us know and we will send you the necessary forms. If you have already designated a representative, no further action on your part is required.



DEPARTMENT OF VETERANS AFFAIRS
 Department of Veterans Affairs
 VA Regional Office
 P.O. Box 8888
 Muskogee OK 74402-8888

MR. TOM T. VETERAN
 1 BLOCK
 ANTWHERE, US 99999

In Reply Refer To: 351/22
 CSS 123-44-5678
 VETERAN, Tom T.

Dear Mr. Veteran:

This letter is about the change in your enrollment that began on January 1, 1996. Because of the change in your enrollment, **we may have paid you more than you were due.**

What We Did

We reduced your payments on February 1, 1996 to \$200.00 per month. You will receive another letter about this change. The letter will show if you have an overpayment.

What We Need

Please send us a statement to explain the change in your enrollment. In most cases we require evidence to support your statement. If you do not have supporting evidence, please tell us why. (See the enclosure **Changes in Your Enrollment.**)

When We Need It

Please send us the information within 30 days. We cannot consider information received more than one year after the date of this letter. We may extend this time limit if you show a good reason why you could not meet it.

What We Will Do

If we accept your statement,

we will not adjust your payments any further.
We will not create an additional overpayment.

If we do not accept your statement with supporting evidence,

OR

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CSS 123-44-5678
Veteran, Tom T.

You do not respond within 30 days,

we will reduce your payments to \$200.00 per month from
September 30, 1995, **which will cause an overpayment**
which you must repay.

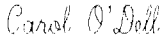
Your Rights

You have basic rights you may use before we make a final decision on your claim. (See the enclosure, **Basic Rights.**)

If You Need Help

If you need help, call your **local** VA office. The number is listed in the telephone book under U.S. Government, Department of Veterans Affairs, or Veterans Administration. If you must call VA long distance, in the United States, dial toll-free, **1-800-827-1000**. If you are hearing impaired, in the United States, dial toll-free, **1-800-829-4833**.

Sincerely yours,



Carol O'Dell
Adjudication Officer

Enclosure(s): Changes In Your Enrollment
Basic Rights
VA Form 21-4138

CHANGES IN YOUR ENROLLMENT

If You Withdraw

If you withdraw from one or more courses after the end of your school's drop period and receive grades that do not count toward graduation requirements, you may have to repay **all** benefits for the course(s).

You may not have to repay the benefits if you show that the change was due to reasons beyond your control. The reasons must be unavoidable and unexpected events that directly interfered with your enrollment.

Examples of reasons we may accept are:

- Extended illness
- Severe illness or death in your immediate family
- Unscheduled changes in your employment
- Lack of child care

Examples of reasons we may not accept are:

- Withdrawal to avoid a failing grade
- Dislike of the instructor
- Too many courses attempted

Note: We may ask you to furnish information to support your reason for a change. If a serious injury or illness caused the change, obtain your doctor's statement. If a change in employment caused the change, obtain your employer's statement.

We Can Excuse

The first time you withdraw from up to 6 credit hours, we will excuse the withdrawal and pay benefits for the period attended. **Remember: This only applies to your first withdrawal.**

Grades You Receive

If you receive a grade(s) that does not count toward graduation, you may have to repay **all** benefits for the course(s). You should check your school's grading policy with the registrar or office handling our paperwork. Common examples of grades not used to compute graduation requirements are:

- An "I" grade for an incomplete which is not made up during the time period required by your school or within 1 year from receipt, whichever is earlier
- A "W" or other grade for withdrawing
- An "AU" or other grade for auditing
- Any grade your school does not use to compute the GPA (grade point average) or its equivalent

1997

Evidence

Personal Hearing

- **Make a statement or present evidence to support your claim**

- Bring witnesses to make statements for you

We can't pay for **travel expenses** or any other expenses connected with the hearing. If you want a personal hearing, write or call and tell us.

You may be represented without charge by:

- A member of a service organization recognized by VA
- An attorney

- **An agent.** An agent is anyone other than an attorney or service organization representative who speaks for you.

If you want representation, let us know. If you have already appointed a representative and told us, you don't need to take further action.

VA FORM LETTER 22-899A

As we previously informed you, Department of Veterans Affairs (VA) payments cannot be paid for courses from which you withdraw, or for courses in which your grade will not count toward graduation, unless mitigating circumstances are present. Based on the evidence we have received, we have been able to make a favorable determination regarding your entitlement to benefit payments despite the change in your enrollment status during the term which began _____.

-----OPTIONS-----

1 We have considered

A the evidence you submitted showing ^{that} _____ was the cause for the change in your enrollment status.

B an amended report from your school which provided clarifying information on your enrollment status for that particular term.

C FREE TEXT OPTIONAL PARAGRAPH

2 Since the change in your enrollment status has been adequately justified, your award of educational assistance benefits

A will not be adjusted further because of this change in your enrollment. However, if you previously received an overpayment of benefits, you are still responsible for repayment of that overpayment.

B has been terminated effective _____ because you withdrew from all courses on that date.

C FREE TEXT OPTIONAL PARAGRAPH

-----6-HOUR EXCLUSION PARAGRAPH-----

You are allowed one instance of withdrawal from courses up to 6 semester hours or the equivalent without being required to furnish a statement of mitigating circumstances. The decision described above includes a grant of this one-time withdrawal without penalty. If you withdraw from courses in the future, you may be required to repay all benefits for such courses unless you can demonstrate you withdrew due to unanticipated circumstances beyond your control.

If an adjustment has been made to your award, you will also receive a computer-generated letter. It will provide information on your remaining entitlement, the amount of your overpayment or additional overpayment (if any) procedures for repayment, and your right to request waiver of any overpayment.

Sincerely yours,

G. WILLIAMS
Adjudication Officer

Enclosures:

~~VA Form 21-4130~~
VA Form ~~21-4107~~

2130/--- --

*****CREATES NOTICE OF PROCEDURAL AND APPELLATE RIGHTS*****



DEPARTMENT OF VETERANS AFFAIRS
 Department of Veterans Affairs
 VA Regional Office
 P.O. Box 8888
 Muskogee OK 74402-8888

MR. TOM T. VETERAN
 1 BLOCK
 ANYWHERE, US 99999

In Reply Refer To: 351/22
 CSS 123-44-5678
 VETERAN, Tom T.

Dear Mr. Veteran:

In our letter of January 1, 1995 we asked you to explain the change in your enrollment beginning on September 30, 1994. Based on the information we received, we have decided in your favor on payments for that enrollment.

What We Looked At

To make this decision, we looked at the information you sent us showing that your recent illness caused the change in your enrollment.

What We Did

We did not make further changes in your payment.

You must still repay any existing overpayment of benefits.

Why We Made This Decision

The information you sent shows that the change in your enrollment was due to reasons beyond your control. The circumstances were unexpected and prevented you from completing your course(s).

If You Think We're Wrong

If you think we're wrong, write and tell us why. The enclosed form explains your rights.

If You Need Help

If you need help, call your local VA office. The number is listed in the telephone book under U.S. Government, Department of Veterans Affairs, or Veterans Administration. If you must call VA

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CSS 123-44-5678
Veteran, Tom T.

long distance, in the United States, dial toll-free, 1-800-827-1000. If you are hearing impaired, in the United States, dial toll-free, 1-800-829-4833.

Sincerely yours,

Carol O'Dell

Carol O'Dell
Adjudication Officer

Enclosure(s): VA Form 4107



Department of Veterans Affairs

NOTICE OF PROCEDURAL AND APPELLATE RIGHTS**IF YOU DO NOT AGREE WITH THIS ACTION**

We have based our determination on the evidence of record and the applicable law. If you do not agree with the action we have taken, you have two choices. (1) You may reopen your claim by sending VA new and material evidence which we have not considered. (2) You may appeal to the Board of Veterans' Appeals (BVA).

REOPENING YOUR CLAIM

NEW EVIDENCE. You may give us evidence we do not have to strengthen your claim. Testimony may be that kind of evidence. To have a hearing before regional office personnel, see the instructions below. It is in your interest to send us any new evidence as soon as possible. We will consider it and let you know whether it changes our determination. You may also submit additional evidence, with some time limitations, if you appeal to the BVA.

HEARINGS BEFORE REGIONAL OFFICE PERSONNEL. We do not require you to have a hearing. You may testify in your own behalf before regional office personnel. You may also bring witnesses. To request a hearing before regional office personnel, send a letter to this office. We will arrange a time and place for the hearing. You can request a hearing before regional office personnel at any time. VA will furnish the hearing room, provide hearing officials and make a transcript of the hearing. The transcript will be placed in your claims folder. Regional office personnel will decide, based on the testimony and other evidence, whether your claim is successfully reopened and whether it can be granted. If your claim remains denied, you may appeal to the BVA. The record sent to the BVA will include the transcript of the hearing. If you appeal our decision, you may also request a hearing before the BVA. See Your Appellate Rights below. You may have a hearing before both regional office personnel and the BVA.

YOUR APPELLATE RIGHTS

This notice summarizes your procedural and appellate rights. For complete information, refer to the Rules of Practice of the Board of Veterans' Appeals (38 CFR Part 20).

APPEAL OF THIS DETERMINATION. You may appeal our determination to the BVA. To appeal, send this office a Notice of Disagreement within 1 year from the date of the letter which accompanies this form. A Notice of Disagreement is a letter telling this office that you wish to appeal. If more than one benefit is involved, you should identify the benefit or benefits for which you are appealing. After you have filed a Notice of Disagreement, we will send you a Statement of the Case containing the facts, the applicable laws and regulations, and the reasons for our determination.

HEARINGS. You may still have a hearing before regional office personnel even after you file a Notice of Disagreement. If you want a hearing before regional office personnel, see the instructions above. In addition, you may have a hearing before the BVA after you appeal the determination contained in the letter which accompanies this form. The BVA does not require a hearing. You may present evidence and argument, and bring witnesses. The testimony will be a part of the record. VA will set the time and date of the hearing, provide the hearing room and hearing officials, and record the hearing. VA cannot pay any other expenses of a hearing. The BVA holds hearings in Washington, D.C., or at a VA regional office. If you request a hearing before the BVA in Washington, D.C., the BVA will tell you the time and date of the hearing. To request a hearing before the BVA at a regional office, write to this office. We fill these requests in the order of receipt. This office can tell you the expected waiting period for a BVA hearing at this office.

REPRESENTATION. An accredited representative of a recognized service organization may represent you without charge. An agent or attorney, such as a legal aid attorney or one in private practice, may also represent you. VA cannot pay fees of agents or attorneys.

ATTORNEY OR AGENT FEE LIMITATION. Except in loan cases, no fee may be charged, allowed, or paid for services provided by agents or attorneys before the BVA first makes a final decision in your claim. After the first final BVA decision in your claim, an attorney or accredited agent may charge you a fee under certain circumstances for representing you before VA, including the BVA, or the United States Court of Veterans Appeals. An attorney or agent may charge you a reasonable fee in writing in connection with any proceeding in a case arising out of a loan made, guaranteed, or insured under chapter 37 of title 38, United States Code for services provided after October 9, 1992. For more information, refer to Section 5904, Title 38, United States Code. If an attorney or accredited agent represents you before VA, a copy of any agreement between you and the attorney or accredited agent about the payment of the attorney's or agent's fees must be filed at the following address: Counsel to the Chairman (01C3), Board of Veterans' Appeals, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

APPEAL OF BVA DECISION. You may appeal a final BVA decision to the United States Court of Veterans Appeals (the Court). You must file a Notice of Appeal with the Clerk of the Court within 120 days from the date on which the BVA mailed the notice of the BVA decision.

VA FORM LETTER 22-899B

In our letter dated _____, we informed you ^{that} Department of Veterans Affairs (VA) payments cannot be paid for courses from which you withdraw, or for courses in which your grade will not count toward graduation, unless mitigating circumstances exist. As the result of a reported change in your enrollment status, it has become necessary to adjust your award. The following explains why we are required to take this action.

-----OPTIONS-----

- 1 You did not respond to our previous letter. If you have reasons for making the change in your enrollment status that you would like us to consider, you must submit them before _____, which is 1 year from the date of our prior letter.
- 2 The evidence you submitted which included:
 - A did not establish your reason for making the enrollment change was because of circumstances which were unanticipated and/or beyond your control.
 - B did not adequately show how the circumstances actually interfered with your enrollment to the extent you were unable to successfully complete your course(s).
 - C was not adequately substantiated by verifying documents or statements
 - D FREE TEXT OPTIONAL PARAGRAPH
- 3 Your award of educational assistance benefits has been
 - A terminated effective _____ because you withdrew from all courses on _____.
 - B reduced to the _____ time rate effective _____ because you withdrew from _____ hours on _____.
 - C terminated effective _____ because none of the courses in which you were enrolled will be used in computing your graduation requirements.
 - D reduced to the _____ time rate effective _____ because _____ (course) hours will not be used in computing graduation requirements.
 - E FREE TEXT OPTIONAL PARAGRAPH

FREE TEXT OPTION

-----6-HOUR EXCLUSION PARAGRAPH-----
 You are allowed one instance of withdrawal from courses up to 6 semester hours or the equivalent without being required to furnish a statement of mitigating circumstances. The decision described above includes a grant of this one-time withdrawal without penalty. If you withdraw from courses in the future, you may be required to repay all benefits for such courses unless you can demonstrate you withdrew due to unanticipated circumstances beyond your control.

If an adjustment has been made to your award, you will also receive a computer-generated letter. It will provide information on your remaining entitlement, the amount of your overpayment or additional overpayment (if any) procedures for repayment, and your right to request waiver of any overpayment.

VA Regional Office
 P. O. Box 8888
 Muskogee, OK 74402-8888

Sincerely yours,

G. WILLIAMS
 Adjudication Officer

Enclosures:
 VA Form 4107

2130/--- --



DEPARTMENT OF VETERANS AFFAIRS
Department of Veterans Affairs
VA Regional Office
P.O. Box 8888
Muskogee OK 74402-8888

MR. TOM T. VETERAN
1 BLOCK
ANYWHERE, US 99999

In Reply Refer To: 351/22
C 123-44-5678
VETERAN, Tom T.

Dear Mr. Veteran:

In our letter of January 1, 1995 we asked you to explain the change in your enrollment beginning on September 30, 1994. We could not decide in your favor on payments for that enrollment.

Why We Could Not Decide In Your Favor

You did not answer our letter of January 1, 1995. If you have reasons for changing your enrollment, you must send them before January 1, 1996, which is one year from the date of our original letter. We can extend the one year time limit if you can show good reason why you could not send your statement to VA within that time.

What We Did

We stopped your payments on September 30, 1994 because you withdrew from all courses on November 10, 1994.

If You Think We're Wrong

If you think we're wrong, write and tell us why. The enclosed form explains your rights.

If You Need Help

If you need help, call your **local** VA office. The number is listed in the telephone book under U.S. Government, Department of Veterans Affairs, or Veterans Administration. If you must call VA long distance, in the United States, dial toll-free, 1-800-827-1000. If you are hearing impaired, in the United States, dial toll-free, 1-800-829-4833.

2

C 123-44-5678
Veteran, Tom T.

Sincerely yours,

Carol O'Dell

Carol O'Dell
Adjudication Officer

Enclosure(s): VA Form 4107



Department of Veterans Affairs

NOTICE OF PROCEDURAL AND APPELLATE RIGHTS**IF YOU DO NOT AGREE WITH THIS ACTION**

We have based our determination on the evidence of record and the applicable law. If you do not agree with the action we have taken, you have two choices. (1) You may reopen your claim by sending VA new and material evidence which we have not considered. (2) You may appeal to the Board of Veterans' Appeals (BVA).

REOPENING YOUR CLAIM

NEW EVIDENCE. You may give us evidence we do not have to strengthen your claim. Testimony may be that kind of evidence. To have a hearing before regional office personnel, see the instructions below. It is in your interest to send us any new evidence as soon as possible. We will consider it and let you know whether it changes our determination. You may also submit additional evidence, with some time limitations, if you appeal to the BVA.

HEARINGS BEFORE REGIONAL OFFICE PERSONNEL. We do not require you to have a hearing. You may testify in your own behalf before regional office personnel. You may also bring witnesses. To request a hearing before regional office personnel, send a letter to this office. We will arrange a time and place for the hearing. You can request a hearing before regional office personnel at any time. VA will furnish the hearing room, provide hearing officials and make a transcript of the hearing. The transcript will be placed in your claims folder. Regional office personnel will decide, based on the testimony and other evidence, whether your claim is successfully reopened and whether it can be granted. If your claim remains denied, you may appeal to the BVA. The record sent to the BVA will include the transcript of the hearing. If you appeal our decision, you may also request a hearing before the BVA. See Your Appellate Rights below. You may have a hearing before both regional office personnel and the BVA.

YOUR APPELLATE RIGHTS

This notice summarizes your procedural and appellate rights. For complete information, refer to the Rules of Practice of the Board of Veterans' Appeals (38 CFR Part 20).

APPEAL OF THIS DETERMINATION. You may appeal our determination to the BVA. To appeal, send this office a Notice of Disagreement within 1 year from the date of the letter which accompanies this form. A Notice of Disagreement is a letter telling this office that you wish to appeal. If more than one benefit is involved, you should identify the benefit or benefits for which you are appealing. After you have filed a Notice of Disagreement, we will send you a Statement of the Case containing the facts, the applicable laws and regulations, and the reasons for our determination.

HEARINGS. You may still have a hearing before regional office personnel even after you file a Notice of Disagreement. If you want a hearing before regional office personnel, see the instructions above. In addition, you may have a hearing before the BVA after you appeal the determination contained in the letter which accompanies this form. The BVA does not require a hearing. You may present evidence and argument, and bring witnesses. The testimony will be a part of the record. VA will set the time and date of the hearing, provide the hearing room and hearing officials, and record the hearing. VA cannot pay any other expenses of a hearing. The BVA holds hearings in Washington, D.C., or at a VA regional office. If you request a hearing before the BVA in Washington, D.C., the BVA will tell you the time and date of the hearing. To request a hearing before the BVA at a regional office, write to this office. We fill these requests in the order of receipt. This office can tell you the expected waiting period for a BVA hearing at this office.

REPRESENTATION. An accredited representative of a recognized service organization may represent you without charge. An agent or attorney, such as a legal aid attorney or one in private practice, may also represent you. VA cannot pay fees of agents or attorneys.

ATTORNEY OR AGENT FEE LIMITATION. Except in loan cases, no fee may be charged, allowed, or paid for services provided by agents or attorneys before the BVA first makes a final decision in your claim. After the first final BVA decision in your claim, an attorney or accredited agent may charge you a fee under certain circumstances for representing you before VA, including the BVA, or the United States Court of Veterans Appeals. An attorney or agent may charge you a reasonable fee in writing in connection with any proceeding in a case arising out of a loan made, guaranteed, or insured under chapter 37 of title 38, United States Code for services provided after October 9, 1992. For more information, refer to Section 5904, Title 38, United States Code. If an attorney or accredited agent represents you before VA, a copy of any agreement between you and the attorney or accredited agent about the payment of the attorney's or agent's fees must be filed at the following address: Counsel to the Chairman (01C3), Board of Veterans' Appeals, 810 Vermont Avenue, N.W., Washington, D.C. 20420.

APPEAL OF BVA DECISION. You may appeal a final BVA decision to the United States Court of Veterans Appeals (the Court). You must file a Notice of Appeal with the Clerk of the Court within 120 days from the date on which the BVA mailed the notice of the BVA decision.

QUESTIONS FROM CONGRESSMAN CHRIS SMITH

Question 1: Mr. Secretary, I am interested in knowing your thoughts on how the two VA medical centers in my state at East Orange and Lyons will fare under the VISN III reorganization program. Specifically, do you foresee more veterans in the northern half of my state (which, under the plan, is set to be included with New York metropolitan area) having to cross the river into New York City to get services? Do you foresee the two New Jersey medical centers continuing in their ability to meet all the health needs of most North and Central New Jersey veterans?

Answer: We plan through the reorganization to better serve veterans of northern New Jersey by improving their access to multiple levels of clinical expertise and community-based medical care.

The plan calls for opening up additional "access points" similar to the Hackensack and Trenton practice groups serving veterans of New Jersey closer to where they live. We are currently planning access points in multiple locations throughout New Jersey, such as Morris County, Fort Dix, and Menlo Park.

By creating a seamless system of health care, linking ourselves not only to the two New Jersey Medical Centers, but also with the New York hospitals, specialty or clinical expertise within the VA will become readily available to our veterans' health care needs.

In providing this expanded care, we will not inconvenience the veterans. Our priority will always be to provide access to care as conveniently and timely as possible within New Jersey. Of course, veterans residing in New Jersey, as in New York, currently travel across bridges to access certain specialties. For example, New York VAMC has for years been our referral center for open heart surgery, as East Orange, New Jersey, has been the radiation therapy referral center for New York. We plan in the future to link our medical centers with the latest in computer technology so that many of our clinical specialists can serve veterans regardless of where they are domiciled, e.g., teleradiology and telemedicine.

Additionally, we planned for VA physicians throughout the New Jersey, New York metropolitan area to have joint clinical privileges so they can serve all veterans and provide a full range of care. This will allow better clinical collaboration and a network of expertise presently unavailable to our patients.

Health care delivery should not be confined within or defined by borders but carefully planned by a patient's primary care physician so that he or she not only will get what is clinically needed but also will receive that care timely and compassionately by making available all resources within the Network. Our priority will always be to provide that care as close as possible to the veteran's home.

Question 2: Mr. Brown, I am very concerned by the possibility that under the reorganization plan, claims adjudications which are currently handled in Newark might be moved out of the state. I am told by people who are active in veterans issues in my state government that under this reorganization we now have veterans being forced to travel great distances for their adjudication, (northern California to Phoenix for example), which they previously did not have to travel.

Answer : The Newark Regional Office is not included in VBA's current restructuring proposals relating to the relocation of compensation or pension processing. No veteran, anywhere in the country, will be required to drive to any office other than the one at which they are receiving customer services now and, in some cases, new satellite offices may be opened to decrease travel times for many veterans. It is unfortunate that many state and local VSO personnel have received erroneous information regarding VBA's restructuring activities and transition year recommendations. I believe that much of this misinformation has been generated by persons, both within and outside of the VBA, who are reacting to the potential for changes to their own individual work locations or work processes, as opposed to focusing on the improved veterans service goals that are at the heart of our restructuring initiatives. It is not now, nor has it ever been the position of this agency, that we will close any of our regional offices. Under our restructuring concept, customer services and information access will be strengthened at our field stations, not reduced or eliminated, and the relocation of claims folders from certain facilities will result in improved claims processing quality and timeliness.

Question: I've heard that the reasoning behind this consolidation is to get the work to the most efficient offices, but it seems to me we ought to be thinking in terms of getting the less efficient offices up to speed. I am interested to know whether or not this is actually the case.

Answer: Due to the budget environment, the size of VBA has steadily declined in recent years even though our workload and pending claims have remained high. We have no expectation of increased resources to support general operations or staffing in the future. We have, therefore, reached a point where we are compelled to explore restructuring options that allow us to accomplish our mission with available resources, and to do so effectively. Even given our resource outlook, VBA's key objectives in the conduct of its restructuring are service driven. They are to improve the efficiency of our processing and benefits delivery activities through consolidation and specialization; to expand accessibility to our services; and to reduce operating costs. Our goal in this process is that, wherever possible, we will improve our services and make them more customer focused. Likewise, we have pledged that we will not abandon our existing regional office locations. In some cases, however, the mission in those locations may change. It is our intent to assure all veterans and their families a high level of service while we take steps to expand and improve personal service.

Question 3: I am also interested in hearing your thoughts on whether the VA ought to be getting out of the nursing home business in favor of more facilities where responsibility for construction, funding and management of nursing homes is shared between the federal and state governments. This type of facility, like the one that is slated for Menlo Park, N.J., seems to me to be a good deal for the VA and I would think this would be the VA's model for meeting future nursing home needs of veterans.

Answer: The VA should not get out of the nursing home business. VA's nursing home programs include the VA operated Nursing Home Care Units, Community Contract Nursing Homes, and the State Home nursing programs. While all three programs provide nursing home care, there are fundamental program differences. The VA Nursing Home Care Units are hospital based. They provide an intensive and extensive level of nursing home care supported by the clinical specialties and host hospital. The Community Contract Nursing Home program and the State Home program provide a wide range of nursing home care to veterans who do not need hospital based nursing home care. The Community Nursing Home program has the advantage of being offered in many local communities throughout the nation, enabling the veteran to be cared for near his/her home and family. The State Nursing Home Program has the advantage of being able to provide care for veterans who require long lengths of stay in a nursing home through ongoing financial support from VA combined with State and individual veteran payments.

Question 4: Mr. Secretary, do you support the concept of adult day health care services for veterans?

Answer: Yes, the VA believes that adult day health care does have a place in the extended continuum of care and should be an option for carefully selected veterans. VA currently supports contract and VA adult day health care services.

Question: Would you support a pilot program where such a program could be looked at?

Answer: VA recommends that section 1741 of title 38, U.S. code, be amended to include authorization for State home adult day health care. As we stated in submitting previous legislative proposals to do this, we anticipate that a maximum of 15 State homes would initiate adult day health care services. We do not anticipate that all States would decide to provide adult day health care in their State veterans' homes. VA suggests that State homes in urban sites are more likely to be cost effective due to the transportation cost in a rural setting.

Question 5: I would be interested in hearing your views on which way we ought to be heading on eligibility reform. It seems we have a very broad range of proposals for what VA Health ought to be taking on or not taking on. What are your thoughts on this issue?

Answer: We believe that VA's statutory authorities are inadequate to support modern cost-effective health care.

Today most health care is provided in outpatient settings. Unfortunately, current VA eligibility rules require, in some situations, that physicians admit patients to the hospital to provide care even if their ailments could be treated more effectively, more compassionately, and more efficiently on an outpatient basis. For many chronically ill veterans, lack of or fragmented preventive and acute outpatient care exacerbate their health problems.

Our proposal for modifying eligibility was transmitted to the House on September 12, 1995, and referred to the Veterans' Affairs Committee. Our proposal would provide that the Department "shall furnish a specified core group of veterans with needed health care". This would include hospital care, outpatient care, disease prevention services, pharmaceuticals, medical equipment, and prosthetic equipment and devices. Persons in the core group would generally be those veterans commonly referred to today as category A veterans: those with service-connected disabilities, former prisoners of war, World War I veterans, and nonservice-connected veterans with incomes below the current means test income threshold. The Department would retain authority to furnish those veterans with other types of health care, including nursing home care as resources allow. We also would retain authority to furnish all health care to veterans not included in the core group. We would furnish all care in accordance with five priority groups set forth in the bill. Finally, the bill would continue in place the current copayment structure and would retain, essentially unchanged, the Agent Orange, Radiation, and Persian Gulf treatment authorities.

We believe our proposal makes it easy for the veterans seeking care to understand what care they can get; makes it possible for practitioners to provide the most appropriate treatment in the most appropriate setting; and is budget neutral.

Question 6: Secretary Brown, in the past you have indicated to me that you support my efforts to have Bronchio-loalveolar Carcinoma added to the list of diseases which the VA presumes to be service-connected; is that still your position on this matter, especially in light of the fact that we now have the major veterans service organizations on record as favoring this addition to the presumptive list of Public Law 103-210.

It is my understanding that the President's advisory committee which was set up to look at the issue of government sponsored human experimentation, has recommended looking into expansion of PL 103-210 to include more cancers. One of the cancers that BEIR V (Biological Effects of Ionizing Radiation), the medical guide which informs the entire atomic veteran process, has documented that Bronchio-loalveolar Carcinoma is plutonium induced.

That said, this ought to be a slam dunk for the families that have been fighting for this for over a decade. The House Veterans' Committee and the VSOs are all on board with this for this year. Can we expect your support for this

provision should we run into any trouble making this expansion of the presumptive list a reality?

Answer: VA's formal position on HR 368, which would add bronchiolo-alveolar carcinoma to the list of diseases presumed service connected if suffered by certain radiation-exposed veterans, was presented by Under Secretary Vogel to the Subcommittee on Compensation, Pension, Insurance and Memorial Affairs on October 12, 1995. He testified VA prefers that the law not be changed to presume this cancer service connected in all cases, because such a blanket presumption would necessarily be overinclusive. VA would rather adjudicate each such claim on the strength of its own individual merits under our specialized procedures, which assure that expert scientific opinion is brought to bear.

Currently the VHA does not support making bronchio-loaveolar carcinoma a presumptive condition for radiation-exposed veterans for the following reasons: this is only a single histological subtype of lung cancer; most veterans were exposed to only low doses of ionizing radiation in service (less than 1 percent are estimated to have received more than 5 rem, the current permissible limit for occupational exposures); and this ignores the possible role of other carcinogenic agents. While bronchio-loaveolar carcinoma can be caused by exposure to ionizing radiation, it also can be induced by other agents (Veterans Advisory Committee on Environmental Hazards meeting, November, 1992). For instance, smoking is a strong risk factor for each of the four major types of lung cancer and bronchio-loaveolar carcinomas may develop in scars (Haskell, Cancer Treatment, 4th edition, 1995, page 388).

In response to the final report of the presidential Advisory Committee on Human Radiation Experiments (ACHRE), a VA interagency working group is considering updating the radio-epidemiological tables used to adjudicate some radiation claims and subdividing lung cancer into bronchi-loaveolar and other histological subtypes has been raised with this working group.

Question 7: Mr. Secretary, what specific efforts have the VA undertaken to inform unknowing experimental subjects of their participation in 3,000 human radiation experiments recently documented by the President's Advisory Committee on Human Radiation Experiments?

Answer: Virtually all VA radiation experiments were intended to improve medical diagnosis or treatment and most involved only small "tracer" amounts of radioisotopes. Large volumes of information about VA research were provided to the presidential Advisory Committee on Human Radiation Experiments (ACHRE). The ACHRE final report did not single out any VA research studies as being problematic or warranting follow-up action.

In addition, the VA itself focused attention on early radiation research projects for which at least some names of research subjects were known. These studies were chosen because of the possibility of contacting veterans or family members to encourage medical surveillance or submission of a

compensation claim if warranted. An expert committee including specialists in nuclear medicine, radiation oncology, health physics, and radiation dosimetry reviewed information about these projects and no veterans were identified who were felt to warrant follow-up actions specifically because of their radiation exposure.

Concerns have been expressed about veterans who received nasopharyngeal (NP) radium treatments during military service (although in most instances these were considered accepted medical care rather than experiments). Notification of individual veterans treated with NP radium is not possible because no comprehensive listings exist. Therefore, information has been provided to the VSOs for their newsletters in an effort to provide "group notification."

In addition, the Veterans Health Administration has received over 1700 radiation-related inquiries from veterans and family members. Most of the inquiries about exposures that occurred at VA medical centers have related to routine/standard medical procedures and not experimental exposures. These inquiries are referred to the most appropriate VA medical center to investigate and to respond to the inquirer. Unfortunately, in some cases definitive answers cannot be provided because records are no longer available.

Question 8: Mr. Brown, based on documents provided by the VA and DoD, the President's Advisory Committee determined that, "in 1947, the government contemplated the keeping of secret records in anticipation for potential liability claims from service personnel exposed to radiation and that some such records were kept. However, despite substantial search efforts by the DoD and VA, the specific identity of the records referred to have not yet been determined." (Advisory Committee Report, pg. 836.)

Since submission of the Advisory Committee's Report to President Clinton on October 3 of last year, what efforts, if any, has the VA pursued to further identify and retrieve these records?

Answer: No further efforts specifically addressing this issue have been pursued since the VA's Inspector General's Office concluded that the proposed "confidential" Atomic Medicine Division had never actually been activated.

Question 9: Secretary Brown, the VA also informed the Advisory Committee that non-classified VA hospital records regarding the approximately 3,000 radiation experiments conducted on veterans at VA hospitals, had been lost or destroyed. (Advisory Committee Report, pg. 795.)

What specific efforts has the VA undertaken to find the records, including patient records, about these radiation experiments?

Answer: Many records relating to VA radiation research remain and large volumes of information were, in fact, provided to the presidential Advisory Committee on Human Radiation Research.

VA medical centers are continuing to investigate concerns expressed by individual veterans and family members. Such investigations may include efforts to retrieve and review old medical records (e.g., from Federal Records Centers).

Question 10: Also, in its final report, the President's Advisory Committee recommended, with regard to the Atomic Veterans, that the VA review and update the basis for its radiation compensation determinations, and determine the cost effectiveness of its current radiation compensation program. This should include a review of the actual compensation awarded on radiation claims versus the costs of administration and costs for radiation dose reconstruction conducted in conjunction with the filing of such claims.

Please provide the Veterans Committee with a cost breakdown as to: a) how much has been paid out by the VA in radiation compensation awards; b) how much it has cost the VA in the administration and determination of radiation claims; and c) how much the federal government has paid for radiation dose reconstructions done in conjunction with the radiation compensation claims.

Answer: a) Our data bases do not maintain identities to isolate veterans who are receiving compensation because of a radiogenic condition. Therefore, we cannot provide the cost breakdown for this group of veterans.

b) VBA does not have specific operating expenses attributable to the determination of radiation claims. The information we can identify shows that 18,515 radiation cases have been completed since we first began tracking this data in 1978. Due to the length of time involved, changing baseweights and cost per FTE, we cannot provide you with a reliable cost estimate. We feel the amount would not be significant when compared with the large volume of claims adjudicated.

c) VBA does not have any specific information on how much the federal government has paid for radiation dose reconstructions done in conjunction with the radiation compensation claims.

QUESTIONS FROM CONGRESSMAN BILIRAKIS

Question 1: What is the current status of the Spinal Cord Injury (SCI) unit project at the James Haley Medical Center in Tampa, Florida?

Answer: A contract for construction documents was awarded July 1995, and the documents, are scheduled to be completed June 1996.

Question 2: When do you anticipate requesting construction money for the SCI Unit?

Answer: The SCI project will be considered for the earliest budget request possible, given resource constraints and other competing high priority projects.

Question 3: Once construction begins, how long will it take to complete the construction of the SCI unit?

Answer: The project will be constructed in two parts. The first portion, the central energy plant, will take one year to construct and must be completed before starting the construction of the SCI. The second portion, SCI, will take two years to construct.

Question 4: What VA projects are considered to be higher priority than the Tampa SCI unit project?

Answer: There are 95 projects in the Patient Environment category of the VA Major Project Inventory. Sixty nine (69) projects have a higher priority score than the Tampa SCI/Energy Plant project. Projects are only evaluated for selection within their own prioritization category. VA no longer compares project scores in cross categories.

Question 5: Were any projects with a lower priority score than the SCI unit included in the Administration's FY 1997 budget request? If so, why were they included?

Answer: All patient environment projects included in the VA major construction budget have higher priority scores than the Tampa SCI/Energy Plant project.

Question 6: In FY 1986, the Port Richey VAOPC had a total number of patient visits of 7,153. The Clinic's projected number of visits for FY 1996 is projected to be 40,000. Does the VA have plans to expand the Port Richey VAOPC? If so, I would like some information on the VA's expansion proposal.

Answer: The Port Richey OPC was activated in September 1985 in 4,550 net square feet of leased space. The Clinic provided 7,153 outpatient visits in FY 1986, the first full year of operation. By FY 1987, Port Richey had provided 11,869 visits, necessitating an expansion of the leased space to 11,000 net square feet. The following year (FY 1988), workload increased to 21,661 visits. Some modular buildings were added in FY 1994, but these provided only an additional 1,000 net square feet. The workload has continued to grow in spite of the space constraints; visits

increased from 27,410 in FY 1989 to 37,214 visits in FY 1995.

Approved workload allocations for 2005 at Port Richey total 54,100 visits. A space package was approved in December 1994 for expansion of the Port Richey OPC. Expansion plans call for 23,822 net square feet, or 30,492 occupiable square feet of space. Additional staff work is currently underway to insure that this amount of space is adequate. Advertisement for new leased space by VA Real Property is scheduled for May 1996. In the meantime the current lease, which expires in June 1996, has been extended for a 30-month period to allow time for acquisition of new leased space.

QUESTIONS FROM CONGRESSMAN EVERETT

Question 1: The Veterans Benefits Administration's reorganization plan is expected to make productivity and timeliness improvements.

- a) How does the budget support achieving each of VBA's goals?
- b) With those goals in mind; how much money is allotted for overtime?
- c) How will the claims backlog be affected by the completion of each step of the reorganization plan?
- d) In FY 97, you expect to receive 50,706 fewer new claims, however, you estimate the backlog to be reduced by only 70,642 claims from the FY 96 level. The FY 96 numbers looked much the same. From these numbers, it appears that reductions in claims backlog are mostly a function of fewer applications for benefits. Can you please explain the reasoning behind the submissions statement that reductions are a function of management initiatives, technology and increases in rating specialists?
- e) What are current staffing levels at VBA? What are expected staffing levels following completion of reorganizing?

Answer: a) VBA's FY 1997 budget submission provides business plans for three of our five business lines: Insurance, Education, and Loan Guaranty. These Government Performance and Results Act (GPRA)-based business plans include performance objectives and specific performance indicators that will lead to the achievement of each of our strategic goals. Our 1998 budget submission will include all five business lines in a master business plan, which will integrate our business process reengineering, technology and restructuring activities into one comprehensive GPRA-based business plan. The resources requested in each business area take us toward our goals.

b) VBA's FY 1997 budget includes \$5,868,000 million for overtime.

c) VBA is pursuing restructuring as just one element (along with Business Process Reengineering and enhanced computer technology) to provide optimum service with available resources. We are looking to provide timely, high quality resolution of claims. By consolidating the adjudication activities for rating-related claims and the more complex authorization issues into the proposed Claims Processing Centers in each catchment area, we will be able to target our human resources to achieve improved productivity and processing timeliness. Improvement in these two indicators of performance will have a secondary effect of reducing the volume of claims pending to be worked. However, since our Master Plan for Restructuring has not been finalized, we are unable to project what improvements will naturally occur in the pending workload.

d) The advances made in the reduction of the C&P backlog and the improvements in timeliness are the product of management initiative, technology and an increase in the number of rating specialists. In 1996, C&P will complete approximately 2,362,900 claims. In 1997, C&P will complete approximately 2,354,900 claims (less than one percent difference from 1996) with 171 fewer FTE than were required in 1996. In addition, the timeliness and quality of these completed claims will improve. While it is true that the number of claims received is declining, it is important to point out that we have not relied on that fact to achieve our stated goals.

e) VBA's on-board staffing level at the end of April, 1996 was 12,531 full-time employees (FTE). The projected personnel savings based on the ten transition year restructuring initiatives is 465 FTE.

Question 2: What is the total amount of money spent on VBA computer modernization since FY 86? Does that amount include payroll costs?

Answer: The total amount spent on VBA modernization from 1986 through March 1996 is \$295 million. Payroll costs comprise about \$60 million of the \$295 million total cited above for modernization.

Question 3: To date, how has the individual veteran benefited from your computer modernization efforts?

Answer: The stage one modernization deployment of personal computers, local area computer networks, and computer applications to support claims processing in VBA's 58 regional offices, coupled with the development of new business practices and specialized technologies has contributed toward providing a modern RO environment to better serve America's veterans and their families.

Demonstrating the effectiveness of the modernization effort to date, the average number of days to process an original disability compensation claim has been reduced from 212 days in May 1994 to 156 days in March 1996. For the same time period, original disability pension processing was reduced from 127 days to 92 days. Original death indemnity compensation was reduced from 111 days to 79 days and original dependency indemnity compensation from 66 to 49 days. While these processing improvements are due to a number of factors, the improved availability and speed of access to VBA's information systems provided by the stage one platform has been a major reason for the improvement. In addition, installation of the following applications were assets in improving these response times:

Automated Medical Information Exchange (AMIE). The replacement of outdated equipment has reduced the response time for receiving veteran medical data from 26 minutes to 4 minutes.

Rating Board Automation (RBA). The automation of the veteran disability rating process has reduced response time

and improved accuracy for claims requiring rating board action.

Personal Computer Generated Letters (PCGL). The improvement of automated responses to veterans has eliminated the dictating of letters and manual collection of forms sent to veterans. Adjudicators can download data into letter and automatically generate necessary forms.

Eligibility Verification Report (EVR). The annual verification of veteran/beneficiary income data has been improved by preprinting data on the questionnaire sent to respondents. Data can be reviewed and verified more quickly by veterans and bar-coded information can be processed more quickly.

Construction and Valuation (C&V). The C&V system assists veterans purchasing homes by tracking and recording real estate appraisal information and generating certificates of reasonable value. It also permits vendors to receive an electronic assignment of VBA-certified real estate appraisers.

Question 4: The President's budget requests an additional 50 FTE at the Board of Veterans' Appeals, indicating that the increase of 50 will make it a considerable improvement in decision production. With 64,693 claims estimated to be pending at the end of FY 1996, how many decisions do you estimate can be produced by the new staffing level?

Answer: The Board of Veterans' Appeals will produce 41,200 decisions in FY 1997 at the staffing level requested (527 FTE). This is 8,950 more than will be decided in FY 1996 and 3,200 more than the number of appeals that we expect to be filed in FY 1997.

Question 5: In your written response to Congressman Everett dated May 5, 1995, you stated that "a sustained level of staffing and overtime, coupled with management and technological initiative" was the most effective approach in reducing the backlog and processing claims in a timely manner.

a) Please explain the management and technological initiatives enacted thus far, and how the backlog was affected by those changes?

b) Do you feel the budget sustains or improves upon those initiatives?

c) How have these initiatives been incorporated into the VBA reorganization plans?

Answer: a) Our work measurement system captures the combined impact of all changes, but it cannot isolate the impact of an individual change. We do know that the combination of all C&P efforts will continue to enable us to make progress in reducing the backlog. In 1995, we surpassed our goal for backlog reduction and remain on schedule for meeting our 1996 backlog reduction benchmark.

b) The 1997 President's budget sustains these advances and provides the required funding to introduce greater progress to the claims processing system. Initiatives such as Business Process Reengineering (BPR), Claims Processing System (CPS), and Rating Board Automation (RBA) will improve timeliness and enhance claims processing. (Each of these initiatives is described in further detail in the Planned 1996 and 1997 Actions section of the GOE Budget.) In addition, BPR will result in an integrated plan for future progress.

c) The 1997 President's Budget included Planned 1996 and 1997 Actions to consolidate adjudication activities from four smaller offices to selected regional offices and consolidate pension processing from four larger regional offices to selected regional office processing sites. There has been a considerable amount of concern expressed by stakeholders within VBA and outside about these transition year initiatives. As a result, the Undersecretary for Benefits established six subgroups to the Field Restructuring Task Force. The Compensation and Pension subgroup was to:

- 1) envision and design compensation and pension claims processing offices for 2002 and beyond
- 2) recommend strategies to carry out the identified transition year initiatives and
- 3) develop a Master Plan to accomplish the first two steps.

The subgroup has submitted its report to the Field Restructuring Task Force.

Question 6: Based on this budget, please provide the Committee with a strategic plan for the future of the Veterans Benefits Administration, the Board of Veterans Appeals and a National Cemetery System.

Answer: The Veterans Benefits Administration (VBA) is in the process of compiling its strategic plan for the outyears. A team of individuals is assessing and analyzing the initiatives submitted by the five business lines (Compensation and Pension, Education, Loan Guaranty, Vocational Rehabilitation and Counseling, Insurance), the four Areas (Central, Eastern, Western, Southern) and the support offices (Chief Information Officer, Chief Financial Officer, Training, Executive Management and Communication, Human Resources). Their goal is to ensure linkage and integration of all initiatives, in support of VBA goals, values and measures. While planning is an evolutionary process, a "final" strategic plan is scheduled to be presented to VBA's Strategic Management Committee early June with approval by the Under Secretary for Benefits scheduled to occur in mid-June.

Attached is a copy of the National Cemetery System's 1996-2000 Strategic Plan. This plan is prepared on a biennial basis in accordance with the Government Performance

and Results Act of 1993. The 1998-2002 Strategic Plan is currently being developed.

During FY 1996, the Board of Veterans' Appeals will develop a strategic plan under this process. The strategic plan for the Board will be fully coordinated with all appropriate Departmental operating and support offices, including in particular, the Veterans Benefit Administration. A copy of the Board's strategic plan will be provided to the Committee when it has been completed.

Question 7: In previous years' budgets, VA has presented a category called Future Years Resources Projections, which indicated out year spending for VA cemeteries. In both FY 95 and FY 96 budgets, VA suggested a decline in the NCS budget for those years. Can we assume since the Analytical Perspective suggests the category in which cemeteries are grouped declines by 2 percent, that NCS funding will decrease at a time when its workload will steadily increase?

Answer: Currently the out year projections in the FY 1997 President's Budget shows a decline for the National Cemetery System. The exact changes year-by-year are as follows: FY 1998 -8%; FY 1999 -9%; FY 2000 -10%; FY 2001 +14%; and FY 2002 +14%. This results in a FY 2002 budget projection of \$75.267 million, 2% less (before inflation) than the FY 1997 request of \$76.864 million.

These figures are currently only projections made on across-the-board changes, and it is not realistic to consider program-by-program decisions now for FY 2000 and beyond. The FY 1997 budget and appropriations process will only lock in funding for FY 1997, and the National Cemetery System is encouraged by the fact that the FY 1997 President's Budget level of \$76.864 million is 5.8% over the FY 1996 appropriated level of \$72.604 million.

Annual budgets will require detailed policy decisions on the basis of current assessment of needs. The National Cemetery System feels confident that our increasing workload will be a factor in determining budget levels in the future years.

Question 8: The budget submission projects a 50,706 decrease in new C&P claims for FY 1997 and a decrease of 70,642 in the C&P backlog. It appears that nearly three-fourths of the backlog reduction is due solely to fewer claims coming through the door. Is that a correct reading of the document? (Vol. 4, 2-27)

Answer: The numbers presented are correct. To accurately read this document, however, you must also consider the volume of work completed and the staffing level. In 1997, there will be 171 fewer FTEE performing the work. This represents more than a four percent drop in adjudication staffing levels. At the same time, the volume of work completed is reduced by less than one percent. These variables better illustrate the advances planned in reducing the backlog and streamlining the claims processing system.

Question 9: What are the appeal rates for each type of claim?

Answer: We do not track appeal rates by type of claim.

Question 10: If you do not keep such appeal data, why not?

Answer: The appellate process is the same for all issues on appeal. For workload management purposes, a detailed breakout is not necessary.

Question 11: What system does VA use to prioritize existing cemeteries for expansion?

Answer: Expansion of national cemeteries is prioritized on the basis of need for burial space to serve veterans and their families. Cemeteries are expanded when: 1) the cemetery does not have sufficient burial space available to provide continuing service to veterans; 2) there is suitable land adjacent to the cemetery that is obtainable through donation, transfer or purchase at a fair market value; 3) veteran demographic analyses indicate that expansion would effectively contribute to serving the veteran community as a whole; 4) the cemetery is not located in proximity of another open national or state veterans' cemetery that can provide service to the geographic area; and, 5) funds are available for acquiring and developing the land and operating the expanded cemetery.

NATIONAL CEMETERY SYSTEM**FY 1996 - FY 2000 STRATEGIC PLAN****NCS Strategic Vision**

The National Cemetery System will provide a lasting tribute to our Nation's veterans.

NCS MISSION

The mission of the National Cemetery System is to serve our Nation's veterans
by meeting their final needs with compassion and dignity.

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Assumptions

The National Cemetery System must accomplish four major tasks to achieve its mission. We must:

- Bury eligible veterans and their family members in national cemeteries and to maintain those graves and their environs as national shrines;
- Assist states in providing burial benefits to veterans through the State Cemetery Grants Program;
- Provide headstones and markers for graves of veterans, wherever those graves are located; and,
- Provide Presidential Memorial Certificates to next of kin and other loved ones of deceased veterans.

Annual veteran deaths are expected to increase 10 percent from 525,000 in 1995 to 575,000 in 2000. By 2010, annual veteran deaths are expected to peak at 607,000. As veteran deaths increase, NCS projects increases in the number of annual interments from 73,000 in 1995 to 89,800 in 2000 and 131,600 in 2010. Gravesites used will increase from 58,200 in 1995 to 73,900 in 2000 and 109,700 in 2010. During this period of time, the total number of graves maintained will increase from 2.1 million in 1995 to 2.4 million in 2000 and 3.0 million in 2010.

As annual interments and total gravesites used increase, cemeteries become closed to interment of full-casketed remains of first family members. In 1993, 55 national cemeteries were closed. By the year 2000, unless additional land is acquired, nine more cemeteries are projected to close, bringing the total closed to 64.

NCS data shows that over 80 percent of interments conducted in national cemeteries are from families residing within 75 miles of the cemetery. As cemeteries close, veterans served by those cemeteries lose access to burial space located within a reasonable distance of their homes. If no new national cemeteries are constructed by the year 2000, we will not be able to maintain service at the current level.

In 1995, NCS expects to process 333,000 applications for headstones or markers for placement in national or private cemeteries. The number of applications processed will increase to 368,000 in the year 2000 and 395,000 in 2010. Presidential Memorial Certificates (PMCs) issued in 1995 will total 282,000, increasing to 316,000 in 2000, and 348,000 in 2010.

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EXTERNAL FACTORS

As the number of interments in national cemeteries increases, resources must be available to honor our Nation's obligation to its veterans. These resources must include adequate funds to provide FTEE, equipment, and administrative support to ensure perpetual maintenance and avoid the deterioration of the infrastructure of these national shrines. Sufficient FTEE, computer systems and computer equipment will be required to maintain quality as the delivery of services increases.

In order to provide veterans with burial services when needed, we must construct five new cemeteries, acquire additional land to keep some existing cemeteries open to first family member interments, and encourage individual states to develop state veterans cemeteries through the NCS State Cemetery Grants Program. Only in these ways will NCS be prepared to provide these final benefits to veterans and their families.

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Secretary's Priorities

Goal 1: Improve communications with veterans, veterans service organizations, and others who wish to contribute to accomplishment of the VA mission.

Goal 2: Improve the Quality, Timeliness and Accessibility of VA benefits and services.

Goal 3: Complement National Health Care Reform by developing and maintaining a comprehensive medical care system for veterans.

Goal 4: Enhance quality of care through comprehensive program of quality management and measurement.

Goal 5: Improve services for PTSD, AIDS, spinal cord injury, environmental exposure, homelessness, female veterans, and other special needs.

Goal 6: Ensure a dedicated, highly motivated and well trained workforce free from discrimination and sexual harassment.

Goal 7: Streamline structures, procedures and regulations, and take advantage of information management and other new technologies to improve internal management and delivery of services.

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NCS GOAL 1 Provide veterans with a full range of burial services and benefits with dignity and honor. (S-2)

Objective 1A. Ensure that burial in an open national or state veterans' cemetery is an available option for all eligible veterans and their eligible family members. (S-2)

Strategies:

(1) Establish, when feasible, new national cemeteries to serve the interment needs of the aging veteran population.

(2) Extend the service period of open national cemeteries through the development of available space for cremated remains.

(3) Acquire land through purchase or donation to keep existing cemeteries open.

Measurement. This objective will be achieved:

(1) by ensuring that the level of service coverage is not eroded through the projected closures of open national cemeteries by constructing new cemeteries in Albany, Chicago, Cleveland, Seattle and Dallas/Ft. Worth, before the year 2000;

(2) by surveying open national cemeteries to determine available space for use as in-ground sites for cremated remains, by constructing additional columbaria at 8 existing cemeteries, and by incorporating columbaria at five new cemeteries;

(3) by acquiring land to extend the burial capacity and service life of national cemeteries currently projected to close due to lack of available gravesites;

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- (4) Increase marketing efforts to encourage States to provide additional gravesites for veterans through participation in the State Cemetery Grants Program.
- (4a) by identifying and prioritizing those States most in need;
 - (4b) by designing a marketing strategy for those States;
 - (4c) by visiting a minimum of 4 of those States annually until all prioritized States have been visited;
 - (4d) by participating in at least 3 veterans' service organization State conferences each year in those States.

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NCS GOAL 2 Enhance the appearance and infrastructure of the national cemeteries to meet the highest standards of public expectation and fiscal responsibility.

Objective 2A. Maintain the appearance and atmosphere befitting a national shrine at all national cemeteries.

Strategies.

(1) Assure that plans exist to protect the aesthetic and functional integrity of each open cemetery.

Measurement. This objective will be achieved when:

(1a) existing master plans are brought up-to-date or new plans are prepared for individual cemeteries at the time construction projects are initiated;

(1b) each cemetery develops a maintenance plan for cemetery infrastructure which is reviewed annually;

(2) Use the construction management process to prioritize and coordinate all maintenance and repair and construction projects.

(2) fiscal resources are available and utilized for minor, and maintenance and repair construction projects;

(3) Accomplish construction projects that improve the condition of the infrastructure; extend the burial capacity and longevity of cemetery operations; and improve safety at the national cemeteries.

(3) fiscal resources are available and utilized for targeted renovation projects.

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Objective 2B. Maintain and support the interment, acreage and grounds maintenance needs of the National Cemetery System.

Strategies.

- (1) Eliminate the backlog of equipment scheduled for replacement.
- (2) Replace equipment when it has exceeded its useful life.
- (3) Acquire additional equipment to meet the needs of the interment and grounds maintenance workload and other unique and unusual situations.
- (4) Develop strategies for the cost conscious use of scarce and costly natural resources associated with cemetery operation and maintenance.

Measurement. This objective will be achieved when:

- (1) funds are designated each year to reduce the backlog of equipment;
- (2) annual reviews are conducted to identify equipment that has exceeded its useful life, and replacement is programmed only for that equipment;
- (3) annual reviews identify additional and/or unique equipment needs and acquisition is programmed;
- (4) plans for the cost-conscious and environmentally sound use of scarce and costly resources are developed and implemented at all national cemeteries;

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- (5) Develop a personnel strategy that will meet the current and emerging operational needs of national cemeteries.
 - (5a) management of smaller, less active cemeteries is consolidated;
 - (5b) services are contracted out where feasible;
 - (5c) management is decentralized wherever possible;
 - (5d) FTEE is shifted from Central Office to the field.

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NCS GOAL 3 Improve communications with veterans, veterans' service organizations, and others who wish to contribute to accomplishment of the VA mission. (S-1)

Objective 3A Develop public awareness and consumer interest strategies to improve service and increase awareness of National Cemetery System benefits available to veterans and their families. (S-1)

Strategies.

(1) Implement a comprehensive public information approach to facilitate an increase in veterans' and the public's awareness of eligibility for burial in national and state veterans' cemeteries, for VA provided headstones and grave markers in public and private cemeteries, and other burial entitlements such as Presidential Memorial Certificates.

Measurement. This objective will be achieved when.

(1a) national cemeteries are provided annually with a standard public affairs package to assist them in informing the public of the various benefits and services provided by NCS;

(1b) cemetery directors are provided with professional assistance in planning and executing special events such as groundbreaking ceremonies, ribbon-cutting ceremonies and commemorative events such as Memorial Day.

(1c) a standardized plan for new cemetery dedication ceremonies, including pre-event publicity, is developed and refined for each new cemetery opening;

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- (2) Develop and implement mechanisms that will inform the community and the public in general that national cemeteries are national shrines that exemplify the dignity, beauty and heritage befitting veterans' final resting places.
 - (2a) a visual identity package is developed to communicate a consistent, positive image of NCS to the public;
 - (2b) in conformance with the visual identity package, historical and general interest brochures for individual cemeteries are developed;
 - (2c) a closer relationship is developed with the National Trust for Historic Preservation, the Department of the Interior, and other agencies concerned with preserving and interpreting our cultural and historic resources;
- (3) Increase public relations activities and strengthen our visibility with the public and the veteran community in order to increase public appreciation and recognition for the NCS mission.
 - (3) the use of portable displays and informational "kiosks" is expanded for use in public places such as shopping malls to inform the general public of NCS and its benefits; such programs will be specially placed in areas where new national cemeteries are to be opened.

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Objective 3B. Increase opportunities for veterans, VSOs and others to contribute to the accomplishment of the NCS mission. (S-1)

Strategies.

(1) Develop various tools/techniques to solicit NCS customer opinion and feedback in order to establish measurable customer service standards.

Measurement. This objective will be achieved when:

- (1a) customer service opinion surveys are developed and conducted among a variety of NCS customers, such as next of kin, the veteran population in general, funeral directors, state Veterans Affairs Officers, private cemeteries and the general public;
- (1b) customer focus groups are developed and conducted among regionally diverse NCS customer groups such as veterans, next of kin, and members of veterans' service organizations;
- (1c) measurable customer-driven service standards are established for NCS using customer opinion data gathered and analyzed in surveys and focus groups;
- (2) volunteer programs are developed and in place using government, corporate, civic and youth groups.

(2) Increase use of volunteers.

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NCS GOAL 4 Ensure a dedicated, highly motivated and well-trained workforce, free from discrimination and sexual harassment. (S-6)

Objective 4A. Ensure a dedicated, highly motivated and well-trained workforce. (S-6)

Strategies.

(1) Enhance training programs throughout NCS.

Measurement. This objective will be achieved when:

(1a) orientation for new employees will reflect changes in the law and regulations or as a result of the NPR;

(1b) programs which reflect changes in the law and regulations or as a result of the NPR are delivered annually, or as needed, as refresher training for all employees;

(1c) assistance in designing Individual Development Plans (IDPs) is available for all employees;

(2) Continue to use and improve the formal training program for individuals selected for Cemetery Director Trainee positions.

(2) cemetery management training is standardized; training material is regularly reviewed and updated to reflect changes in operating directives.

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Objective 4B. Ensure a dedicated and highly motivated workforce free from discrimination and sexual harassment. (S-6)

Strategies:

(1) Develop and implement a series of training programs on discrimination and diversity for all NCS employees that demonstrate NCS's respect for all employees.

(2) Develop and implement a continuing education program on sexual harassment for NCS employees.

Measurement: This objective will be achieved when:

(1) annual training on discrimination and diversity awareness is developed and conducted for all NCS employees;

(2) annual training on sexual harassment is provided to each NCS employee.

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Objective 4C. Provide a work environment that values and supports the diversity of those in its workforce. (S-6)

Strategies:

(1) Increase the career opportunities of minorities, women, and veterans in NCS.

Measurement: This objective will be achieved when:

(1a) a program is developed for outreach to female veterans, including female veterans groups;

(1b) NCS participates in programs at military discharge centers and recruitment fairs;

(1c) authorized recruitment, outreach efforts and upward mobility programs are used;

(1d) cemetery caretaker and other wage grade position descriptions are reviewed and new positions are established so that a wider range of veterans is eligible for and capable of performing those positions;

(1e) the number of minorities, women, and veterans in NCS positions increases;

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- (2) Develop strategies to strengthen internal relationships and support a strong NCS team.
 - (2a) an internal NCS Employee Climate Assessment is researched, developed and conducted. The results are analyzed and provide a framework for action plans,
 - (2b) a variety of internal NCS communication opportunities are investigated and provided,
 - (2c) increased opportunities for communication among all elements of NCS are identified and provided,
 - (2d) the internal customer/supplier relationships within NCS are identified and analyzed, and areas for improvement are identified and prioritized,
- (3) Create and maintain mutually positive and productive labor-management partnerships.
 - (3a) strategies and guidelines are developed and distributed to support the establishment of labor-management partnerships at national cemeteries;
 - (3b) training and development needs for sustaining successful partnerships are assessed and delivery mechanisms are developed to assure that labor and management personnel are trained.

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NCS GOAL 5 Streamline structures, procedures, and regulations and take advantage of information management and other new technologies to improve internal management and delivery of services. (S-7)

Objective 5A. Improve performance in the National Cemetery System through processes that support service delivery and empower employees, with an emphasis on continuous quality improvement. (S-7)

Strategies

(1) Use Total Quality Improvement techniques to create a team-oriented culture.

Measurement. This objective will be achieved when.

(1a) training needs in Total Quality tools and practices are identified, a strategy is developed and training provided;

(1b) ways and means for recognizing and rewarding team achievement are identified, analyzed and implemented in NCS;

(1c) a strategy is developed to meet the NPR requirements for empowering employees through the decentralization of decision making;

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- (2) Train and utilize self-directed teams to achieve specific outcomes and products to improve work processes.
 - (2a) a strategy is developed to identify the role of self-directed teams in NCS and the skills and competencies needed by team members, and to ensure employees are trained in these skills;
 - (2b) a strategy is developed for identifying and prioritizing specific issues for problem-solving team involvement;
 - (2c) a strategy is developed for implementing a system that tracks team improvements and captures cost vs. benefit data;
- (3) Review, evaluate, analyze and implement modular work groups, where appropriate, with more challenging and rewarding work assignments for members.
 - (3) modular work groups are established as appropriate, and are reviewed periodically for modification or additional applications;
- (4) Reexamine award and recognition programs to ensure they adapt to a team-oriented work environment.
 - (4) an award program is established and utilized to recognize contributions of quality improvement teams and/or modular work units.

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Objective 5B. Improve management and service delivery processes through the application of new technologies and automation. (S-7)

Strategies:

(1) Enhance the processing of applications for headstones, markers, and Presidential Memorial Certificates (PMCs) with state-of-the-art software and hardware.

(2) Improve administration of the cemetery system through the development of a Burial Operations Support System (BOSS).

(3) Consolidate data entry processes and expedite information retrieval by integrating major NCS and VA information management systems

Measurement: This objective will be achieved when:

(1) the current Automated Monument Application System (AMAS) is re-engineered to support new work processes in the Office of Memorial Programs. A new automated system supporting new concepts and technology will be designed/developed and installed on a new hardware platform that supports the new technology.

(2) a new telecommunications network and the BOSS application are operational throughout NCS, resulting in the automation of the basic office processes in NCS cemeteries;

(3) the Management and Decision Support System (MADSS) and AMAS are fully integrated with BOSS resulting in a unified system for data entry and information retrieval, including expanded potential for research, inquiry, and ordering capability (such as records of interment and genealogy searches and for the PMC, headstone and marker programs);

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- (4) Expand ADP support and training throughout NCS.
- (5) Develop systems, or prototype solutions where appropriate, to improve service to veterans and support NCS personnel in their duties.
- (4) appropriate resources are in place in the Area Offices and cemeteries to support the expanded use of automated systems in the field. These resources include an official Help Desk to support Central Office and the field, expanded ADP training programs and an increase in personnel resources dedicated to ADP in NCS field sites;
- (5) a standard automated grave locator system is in use at all active cemeteries and a structure is in place to support non-mission critical system development in NCS.

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Objective 5C. Develop strategies to reinvent NCS internal management tools and resources. (S-7)

Strategies.

- (1) Streamline and improve reporting systems.

Measurement. This objective will be achieved when:

- (1a) existing reporting systems are identified and analyzed with respect to organization, data collection methods, presentation, content and usage;
- (1b) unnecessary reports are identified and eliminated;
- (1c) emerging reporting system technology is explored with respect to the feasibility and practicability of implementation in NCS;
- (1d) a system for the regular review of the reporting systems is developed;
- (2) Streamline, improve and formalize administrative and operating procedures.
- (3) Establish a comprehensive resource allocation program that considers fluctuating staffing requirements, performance based measures, and mission-driven results (including the organizational structure).
- (2) handbooks are created to replace the existing M40-2 and periodic updating is accomplished;
- (3) a resource allocation program is developed, tested and implemented within the NCS;

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- (4) Improve the processes by which NCS obtains support services (including personnel, finance, and contract administration).
 - (4a) the strengths and weaknesses of the current system of obtaining support services are examined and a plan is developed to improve those processes.
 - (4b) opportunities to centralize support services within NCS are explored.

QUESTIONS FROM CONGRESSMAN BUYER

Question 1: The Administration has proposed a \$360 per year increase in Pell Grant benefit a 15 percent increase over 1995 and a 3 percent increase each year until 2002. However, the Montgomery GI Bill got no new funding from the Administration. Why is that?

Answer: As you know, the law provides for a cost of living increase effective in October of each year. Any other increases must conform to the PAYGO provisions of the law.

Question 2: For fiscal year 1996 VA has announced a goal of 8 percent of total procurement dollars for veteran-owned businesses. What were the Department's goals for the past three years, and did the Department make those goals? What other groups have special goals for VA procurement contracts?

Answer:

Fiscal Year	VOB Goal	VOB Accomplishment	Total Procurement (\$ in thousands)
1995	8%	5.3%	\$4,655.5
1994	7%	5.8%	\$4,114.7
1993	6%	5.4%	\$3,919.0

In meeting statutory requirements VA annually negotiates procurement goals with the Small Business Administration (SBA) for the categories of small, women-owned, minority owned, and 8(a) business. In addition, VA also establishes procurement goals annually in the subcategories to veteran-owned business of Vietnam-era and disabled veteran-owned businesses.

Question 3: The Administration has not proposed to renew the VA's Adjustable Rate Mortgage program. Why?

Answer: The three year demonstration program for VA adjustable rate mortgages (ARMs) that was authorized by Public Law 102-547 expired September 30, 1995. Prior to its expiration, a bill was considered by the Congress, H.R. 2289, which would have extended the ARM authority. However, when the bill was costed by OMB and CBO, it was determined that there would be significant PAYGO costs if the program were extended. The ARM authority was allowed to expire. While the ARM program may provide a benefit to some veterans seeking to purchase homes, we did not consider it appropriate to propose a re-establishment of ARMs at this time, in the light of current budgetary difficulties.

Question 4: The Vocational Rehabilitation program should be VBA's centerpiece program. By its nature, voc. rehab. requires a great deal of personal contact between the rehab. counselors and their clients, yet the budget does not provide additional resources to keep the average caseload from climbing. How does VA propose to reverse this trend?

Answer: We propose reversing this trend through a number of actions we have initiated. First, we are analyzing and

redesigning our current methods for delivering vocational rehabilitation services. Our goal is to make our service delivery methods as efficient as possible and to minimize labor intensive processes. We established an interdisciplinary team of individuals who for the past six months have used state-of-the-art reengineering techniques to redesign our service delivery methods. Their redesign efforts will conclude shortly and we expect to realize many process efficiencies that will allow VR&C staff to devote more time for face-to-face contacts with their clients.

Secondly, as part of this streamlining effort, we are developing a new, VR&C automated management information system titled WINRS (Waco, Indianapolis, Roanoke, Seattle, regional offices pilot sites). This automated system will provide VR&C staff improved capability to manage the activities of their clients as well as automating many manual administrative processes. This is expected to make more staff time available for direct service delivery.

Finally, we are improving our working relationships with Disabled Veterans Outreach Program (DVOP) and Local Veterans Employee Representative (LVER) and contracting with rehabilitation professionals to supplement the services provided by VR&C staff. These professionals have been helpful in co-managing a client's progress in the vocational rehabilitation program and assisting with job development and placement. We are working more closely with Department of Labor DVOP's and LVER's in assisting vocational rehabilitation program participants with job development and placement. This is being accomplished via a new Memorandum of Understanding, enhanced accountability, and joint training and curriculum development at the National Veterans Training Institute. With the assistance of DVOP's, LVER's and contracted job placement specialists, we have increased the number of program participants successfully rehabilitated this past fiscal year by 24 percent over the previous year. We are working diligently to improve our ability to provide personalized services.

Question 5: Policy making functions should take place in a location that is convenient to other stakeholders in policy formulation. All of the stakeholders in education policy are here in Washington. Why would you move this function out of town and jeopardize the extremely effective working relationships you now have with the Department of Defense, the Congress, the Department of Education and the education industry associations for what are at best marginal improvements in field activities and program management?

Answer: The most important stakeholders in VBA's education services arena are the veterans to whom we provide the education benefits that they have earned. The way we provide those benefits is changing and the role of Education Service policy makers in the development of new policies and procedures is vital to the continued successful management of the education program. The collocation of a management, policy and procedures development organization with a line operation will result in improved policy development and coordination, more

timely issue resolution, improved customer services, and resource savings over a 5 year timeframe. VBA's education-specific Stage II imaging technologies are being implemented at the St. Louis Regional Processing Office within the next year. Education Service collocation will facilitate the timely and efficient development of policies and procedures to improve education services as we migrate from the paper-based environment to the imaging technologies. The resultant policies and procedures will then be utilized at all four education processing sites. VBA's Insurance Service is good example of a successful program collocation initiative. Our Insurance Service, which is located in Philadelphia, has a history of being very well run from a remote location, with strong ties to other Federal agencies, Congress and the insurance industry. We are confident that our implementation plans will result in tremendous gains in the development of new education specific policies and procedures, while still ensuring the high quality of coordination and dialogue that exists between all those involved in the delivery of education benefits to our most deserving--the veterans of America. It is for them that we undertake these important management initiatives.

Question 6: The last two years, the Department of Housing and Urban Development gave over \$1.25 billion in grants, to homeless providers, of which only about \$14.5 million went to veteran-oriented organizations. That's a little over 1 percent. What are your plans to abide by the "Sense of the Congress" resolution contained in The Benefits Improvements Act of 1994 (PL 103-446) to ensure that federal agencies that provide homeless assistance make appropriate referrals to homeless veterans to VA facilities for health care, counseling, substance abuse treatment, and income assistance.

Answer: My role as Co-Chair of the Interagency Council on the Homeless assures that other Federal agencies are aware of the services VA has to offer to homeless veterans. In July 1994, and again in July 1995, all VA medical center (VAMC) directors were directed to carry out assessments to determine the needs of homeless veterans in their communities and to consult with other Federal agencies, State and local government officials and private sector organizations to develop plans to meet those identified needs. In 1995, 2,738 non-VA representatives participated in these assessment and planning activities. Many VAMC directors and VARO directors chose to sponsor Community Homelessness Assessment, Local Education and Networking Groups (CHALENG) meetings to discuss these issues. Representatives from other Federal and local agencies as well as community non-profit homeless organizations and, in some cases, homeless and formally homeless

veterans attended many of these meetings. Referral patterns were discussed and several VAMCs reported that non-VA organizations, including other agencies, found the discussions about services VA can offer homeless veterans to be informative. VAMCs and VAROs will continue to hold these CHAPENG meetings annually, or more frequently as needed. VA's Cooperative Health Manpower Education Program (CHEP) at VAMC Dublin, Georgia, has been funded to develop educational initiatives to address homeless veterans treatment issues. In connection with this education mandate, CHEP staff developed collaborative educational programs with the Department of Agriculture to address rural homelessness issues.

In a separate but related initiative, VA undertook a one day census of veterans in VA's acute care and domiciliary beds to determine the extent to which homeless veterans are receiving care in VA inpatient settings. The startling results of this survey, conducted on September 30, 1995, showed that 23 percent of veterans in acute and domiciliary beds were literally homeless or living in double-up situations with family or friends at the time of admission. Another 7 percent lost their housing during inpatient treatment and were at high risk for homelessness at discharge. These results suggest providers, funded by federal agencies, do, in fact, make referrals to VA for health care, counseling and substance abuse treatment.

CONGRESSMAN NEY

Question 1: Most veterans whom I come in contact with are concerned about the efficient administration of their claims and benefits. Believing that complete automation of the system will improve service to our veterans and their families, can you explain the extent to which the entire claims and benefits system is computer automated?

Answer: The Department currently uses a mixture of technologies to administer the benefits program. Some of these technologies are quite old and we are currently working to convert them. Some of the technologies are very new, at least to VA, and are designed to integrate with the new system we are creating called VETSNET.

Currently, regional offices have as their primary tool the Benefits Delivery Network (BDN) which is a very old Honeywell system which reflects the technologies of the 1960's and early 1970's. This system gives current payment status, folder location, limited data on currently pending claims and limited workload and Management Information System (MIS) information. This system is being replaced by VETSNET which is currently in the "build" stage of its Phase I. Phase I will accomplish conversion and removal of the payment system from the current aging and increasingly unreliable platform to a modern relational data base in a non-proprietary environment. The conversion will move us to a modern relational data base format for storing our data, will eliminate most "batch processing," and will provide some other limited improvements. We are currently in a two year program to accomplish this. Subsequent phases of VETSNET will provide greatly enhanced opportunities for improving efficiency and service to veterans.

Regional Offices also use Rating Board Automation (RBA), Personal Computer Generated Letters (PCGL), local applications and some WANG based applications to provide service to claimants. A folder tracking and transfer program utilizing bar code technology called COVERS is currently being tested in two sites with anticipated national deployment this fiscal year. All of these technologies except WANG and local applications utilize modern software systems. We are also developing a claims processing system (CPS) that will utilize expert systems and case management tools to facilitate claims processing.

Question 2: Beyond automation, what is currently being done to streamline the claims handling process in order to achieve a more efficient and "veteran friendly" processing system?

Answer: The Department is currently engaged in Business Process Reengineering (BPR) with reengineering of the compensation and pension delivery program as the first project. The BPR team is currently on track and anticipated to provide its recommendations for the initial reengineering of the C&P process for approval in early June. Developments within the BPR team are focusing on process, human resource issues for VA staff and enabling information technology.

The BPR process has as its goals designing a system that meets the following goals:

1. satisfying customer and stakeholder needs;
2. maintaining and enhancing quality;
3. reducing the time required to process claims;
4. enhancing customer satisfaction;
5. reducing operating cost;
6. developing and maintaining a highly adaptable; and skilled work force; and
7. improving communications.

We believe that our BPR effort holds great promise in achieving the level of world class service that veterans not only expect but deserve.

Question 3: I am also concerned about the coordination of veterans cases between various entities of the Department. What is being done to ensure that cases, which involve different areas of the VA, are being coordinated and handled in the most efficient manner possible?

Answer: The primary medium for exchanging information and requesting reports pertaining to veterans who file a claim for monetary benefits or request medical care is the Automated Medical Information Exchange (AMIE). This electronic system has been periodically upgraded over the past 6 years. For example, AMIE has been converted from a Wang-based to a PC-based system, making it much faster and more efficient. Among recent enhancements is a data segment within AMIE to track reasons why examination reports need to be returned to the medical facility because they are insufficient for rating purposes. This information is continuously updated and made immediately available as a means for both Veterans Benefits Administration (VBA) and Veterans Health Administration (VHA) managers to identify examination problems so that they can be resolved at the earliest opportunity. A standing work group comprised of both VBA and VHA employees assesses ideas from AMIE users for improvements and serves as liaison with system programmers in establishing priorities for future changes.

In addition, management-level employees from the VA regional offices regularly meet with their counterparts from the VA medical centers with whom they interact in processing claims. These meetings provide a forum for clarifying misunderstandings and keeping channels of communication open for quickly resolving day-to-day problems.

QUESTIONS FROM CONGRESSMAN WELLER

Question 1: Mr. Secretary, as I have mentioned to you in several pieces of correspondence this past year, there are thousands of veterans and their dependents in La Salle and Kankakee Counties who are not able to take advantage of the health care benefits they have earned through service to our Nation. One of the obstacles, of course, which discourages La Salle and Kankakee County veterans from utilizing their health care benefits is the distance they must travel to do so. Again, Mr. Secretary, I put to you that these veterans are clearly undeserved -- can you please explain to me how the VA proposes to remedy this situation?

Question 2: The 1995 Annual Report of the La Salle County Veterans Assistance Commission (VAC) states that from December 1994 through December 1995, the VAC in this rural county transported more than 700 low income veterans to VA health care facilities. Accordingly, the La Salle County VAC spent \$30,000 in transportation fees alone in 1995, and has estimated that they will spend over \$50,000 in 1996. Surely, Mr. Secretary, there is a more cost-effective method available. Can you tell me what that may be?

Answer 1 & 2: VISN 12 has La Salle County in its primary service area, and the VISN leaders are working to improve their ability to provide appropriate and necessary care to local veterans. There are approximately 12,500 veterans in this county and VA facilities are currently serving or have provided service to slightly over 900 of them in the past three fiscal years. These patients are primarily seen at Edward Hines, Jr. Hospital, Joliet Clinic, West Side VA Medical Center, Peoria Outpatient Clinic, Danville VA Medical Center and Iowa City VA Medical Center.

As part of the VISN 12 planning process, patterns of care and the relationships and sharing agreements with community agencies and leaders intended to optimize the access to care for veterans are being evaluated. One example is the sharing with the Will County Health Department in Joliet as part of the Joliet Clinic's care for veterans with psychiatric disorders. This allows VA to obtain twenty-four hour crisis "hot line" care for these veterans at a distance from the main facility. Investigating other arrangements such as this will allow VA in the future to improve access for veterans within available resources.

Flexibility in planning or implementing sharing or partnership agreements with the community (private practitioners, public health systems and the Institute of Hygiene, to name a few) could be simplified if, as we have proposed, VA were given expanded authority to enter into innovative contractual arrangements for providing health care services.

Question 3: It seems apparent to me that great potential exists for the creation of productive partnerships between the VA and underutilized private health care facilities. I believe that such partnerships would provide accessible yet efficient service to large numbers of rural area veterans while saving the government the added expense of the

traditional "brick and mortar" stand alone facilities. Has the VA been seriously considering this approach as part of its strategy for meeting the needs of rural and small town veterans?

Answer: Consistent with Dr. Kizer's Criteria for Potential Realignments (CPR), many possibilities for improving access, improving quality and reducing cost are being considered by Network Directors. Opportunities to better serve the veterans in rural areas will be addressed through the newly-formed Veterans Integrated Service Networks (VISN).

QUESTIONS FROM CONGRESSMAN SCHAEFER

Question 1: I know many VA medical centers around the country experience parking shortages. However, the situation in Denver is quite critical, particularly considering that we were within striking distance of entering into an enhanced-use agreement for a new parking garage before the project fell through at the last minute several years ago. In 1994, a comprehensive Facility Development Plan (FDP) for the Denver VAMC cited parking as one of that facility's major problems.

A patient shuttle now operates between (former) Lowry Air Force Base and the Denver VAMC. This is an acceptable interim solution. However, I believe the only acceptable long-term solution is to provide additional parking at the hospital site itself. Please tell me how you plan to address this pressing need for on-site parking at the Denver VAMC.

Answer: The Denver VAMC is on a 12-acre urban site with 20 buildings. The most recent study, completed in 1993, indicates that there is a shortage of 917 parking spaces for patients and employees, based on the size of the facility and the number of patients served. The parking shortage is not unique to this VAMC.

Since the project to build a parking garage was canceled several years ago, several alternatives have been pursued. Currently, the medical center encourages employee car pools by offering 37 car pool spaces. Parking lots have also been repaved and relined in order to increase the number of parking slots. Finally, satellite parking with a shuttle is provided at the former Lowry Air Force Base.

The medical center's Parking Committee has reviewed numerous options and has recommended that gates be installed on all parking lots and that parking valet service be provided for patients. Based on the experiences of other medical centers who have used valet parking, the medical center expects to significantly increase the number of parking spaces available.

In addition, the medical center is considering a move of the satellite parking from Lowry to Fitzsimons Army Medical Center. The shuttle could then serve the parking lot, ambulatory care clinic, Fisher House, and other VA functions at Fitzsimons.

VA Medical Centers have been requested to submit projects in the Major Construction Project category. The Network #19 Office has endorsed the Major Project submitted by the Denver VAMC, "Parking Structure."

This project would consist of a 800 space parking structure that, once completed, would still leave the Denver VAMC approximately 100 parking spaces short of its needs. This shortage can be addressed by the construction of additional surface parking. The projected cost for this project is \$9,500,000. Total square footage is 341,000.

Question 2: Fitzsimons Army Medical Center (FAMC) in Aurora, Colorado, will soon be closing its doors. I am concerned about how the health care needs of our veterans and retired military personnel who have depended on Fitzsimons can best be met through the establishment of a VA health clinic at this site. Please describe VA's plans for the provision of health care at Fitzsimons.

Answer: The medical center has a continuing interest in establishing an ambulatory/primary care clinic at FAMC.

The clinic is projected to have 5,000 square feet and serve approximately 10,000 patient visits a year. This is about the same size as the Colorado Springs Outpatient Clinic (minus dental and mental health functions). The population served will be those patients who are already enrolled in our primary care program and who have conditions that require regular monitoring. The targeted patients will also be those who live near FAMC in Aurora, eastern Denver, and Adams County. In the future, the medical center hopes to join forces in an affiliation agreement with University Hospital and the Department of the Army (each of whom will have clinics at FAMC) to share support services.

A Denver VAMC representative regularly attends Fitzsimons Technical Work Group meetings (hosted by the Fitzsimons Redevelopment Authority (FRA), and Strategy meetings (hosted by the University of Colorado Health Sciences Center Chancellor). On April 24, 1996, the Medical Center Director and Associate Medical Center Director addressed the FRA Executive Committee with an update on the medical center's plans to move functions to FAMC, including plans for an outpatient clinic.

The medical center staff is moving forward with the next step of selecting the needed clinic space at FAMC. Thereafter, the medical center will request a permit to operate the clinic from the Department of the Army. The clinic is projected to open in late fall 1996 or early winter 1997, assuming that our request to open an access point is approved.

The clinic will advance the VA's goal of increasing access to patients and transition to an ambulatory care delivery system. However, the clinic is not currently designed to address specifically the health care needs of veterans and retirees who previously received care at FAMC.

QUESTIONS FROM CONGRESSMAN EVANS

Question 1: Mr. Secretary, I am very concerned about the impact this year's VA budget could have on the health care we provide to our nation's veterans. Reports have stated that you are considering furloughing employees throughout the VA this year and may terminate up to 10,000 positions, including doctors and other health care professionals, next year.

These reports have rippled through my district. The Iowa City VA hospital is considering furloughing hundreds this year. Outpatient clinics in both Quincy and Bettendorf are also threatened. If this is the case, how do you intend to manage this personnel reduction so that the health care needs of veterans are impacted the least?

Answer: Consistent with trends in the private sector, the Veterans Health Administration is moving to strengthen its outpatient and primary care capabilities and lessen reliance on more expensive and labor-intensive inpatient care.

There will be no furloughs and very limited Reductions in Force (RIFs) in FY 1996. The latter will be coordinated by the Network Directors to ensure the least amount of impact on patient care within their geographic areas.

Next year, depending on budgets and needs of our patients, RIFs and staffing adjustments of Title 38 employees will likely be effected, although the extent is not yet known. These will be implemented only after extensive VISN-wide planning in order to ensure that the health care needs of veterans will continue to be met.

Question 2: How many veterans have been referred to the three special Persian Gulf Referral Centers each year since their creation in August 1992? Please also provide funding for their operation in each fiscal year. Are they provided additional funding considering their specialized testing and personnel needs?

Answer: In August 1992, VA established three Persian Gulf War Referral Centers at VA medical centers in Houston, Texas, West Los Angeles, California, and Washington, D.C. In June 1994, VA established a fourth referral center at the VAMC, Birmingham in order to increase the access for the large numbers of veterans who were deployed from the Southeastern United States to Operations Desert Shield and Desert Storm.

Since initiation, there have been 311 admissions to the Referral Center Program. The total annual admissions are:

<u>Fiscal Year</u>	<u>Admissions</u>
1992	6
1993	41
1994	103
1995	101
1996 (to date)	60

The Referral Center evaluation involves an intensive ten day inpatient evaluation of the veterans health status. The uniform case assessment protocol adopted in 1994 for use in both VA and DoD medical facilities for the evaluation of Persian Gulf veterans' illnesses was first developed by medical personnel at the Washington Referral Center. This protocol has received praise from the Institute of Medicine as an effective tool for the evaluation of unexplained medical conditions.

The Referral Center program was established in 1992 without additional FY 1993 funding or personnel being allocated to the sponsoring medical centers. Since that time the Referral Center needs have been reviewed on an annual basis. The Referral Center funding for all locations is as follows:

<u>Fiscal Year</u>	<u>FTE</u>	<u>Total \$</u>
1994	5.0	300,000
1995	9.0	964,000
1996	9.0	964,000

QUESTIONS FROM CONGRESSMAN GUTIERREZ

Question 1: On March 21st, the Subcommittee on Hospitals and Health Care, held a hearing regarding the FY 1997 budget. During the hearing I asked Dr. Kizer about plans the Chicago area administrators were discussing regarding the possible closure of inpatient substance abuse treatment programs in the Chicago area, most specifically at the Westside VA. Dr. Kizer, stated that it was possible that this may occur. Dr. Kizer went on to explain that the VA had found no tangible evidence that inpatient substance abuse treatment was preferable to outpatient care.

If this is the case, when will the VA begin to shut down inpatient substance abuse programs? In particular, what can I tell the veterans in my district about the future of the Westside facility? Is it going to be shut down in the near future?

Answer: While there has been discussion at the VISN level regarding consolidation of substance abuse beds, there have been no beds at West Side targeted for immediate closure. It is recognized that there are enough beds among the eight Great Lake VAMCs to consolidate services. However, any West Side closures would require access of West Side's patients to long term programs at North Chicago or Milwaukee.

This issue is being studied currently as the community trend appears to favor outpatient over inpatient as the treatment of choice for substance abuse. However, there are no immediate plans to close substance abuse beds at VAMC West Side.

Question 2: Is the VA planning to transfer the data processing unit from Hines to Austin and, if so does it make sense for the VA to be transferring a major data processing unit 1,000 miles southwards to a leased facility?

Answer: The National Performance Review (NPR) report, *Reengineering Through Information Technology*, includes a recommendation to develop a Government-wide data processing consolidation and modernization plan. Office of Management and Budget has requested consolidation/modernization plans from Agencies by June 1996. Federal data center consolidation means concentrating Federal Information Processing (FIP) resources into fewer physical facilities and combining FIP workload onto fewer computers. Federal Data Center modernization means upgrading, enhancing, and/or phasing out and replacing outdated facilities, equipment, and operating practices, to keep pace with the latest improvements in information technology and management methods.

The cost to operate and maintain the 1980s older risky technology at the Hines BDC can be reduced by re-hosting IBM applications to the IBM mainframe at the Austin Automation Center (AAC). In addition, the state-of-the-art mainframe at Austin will enable VBA to provide improved payment services with no risk, at reduced cost, and VBA's

applications will be included in the AAC's comprehensive disaster recovery program. Overall costs to VA can be reduced by \$7 million annually. In addition, further savings can be achieved by the consolidation of Honeywell processing into the Hines BDC.

Question: What will this mean for the thousands of veterans in the Chicago area who depend on the Hines Center to process their benefits?

Answer: Service to veterans will continue uninterrupted. The functions that may be transferred to Austin do not include any functions related to contact with a veteran to provide service. Data processing functions may be performed anywhere in the country without consequence to the veteran. However, it is anticipated that the data processing services utilized by staff that do serve veterans directly will improve.

Question: Will there be delays?

Answer: Payments to veterans will not be interrupted or delayed. If the Hines data processing functions are consolidated into Austin, payment functions will be fully operable prior to any cessation of services from the Hines Benefits Delivery Center.

Question: Will there be lay-offs at Hines?

Answer: Veterans Benefits Administration senior management are addressing the issue of re-allocating resources should data processing functions be moved from the Hines Benefits Delivery Center.

Question 3: Recently the Committee to Review the Health Effects of Vietnam Veterans Exposure to Herbicide issued their 1996 update. The report acknowledged the disproportionately high rates of spina bifida in the children of Vietnam veterans exposed to the toxic herbicide Agent Orange. I would also like to state for the record that I urge this committee to hold hearings on these new findings and hope that Congress takes action to ensure that the effected children of Vietnam veterans receive compensation and the appropriate care.

Answer: As you know, VA has established an Agent Orange Task Force and Working Group to review the IOM report Veterans and Agent Orange -- Update 1996. The Task Force is chaired by the Under Secretary for Health. The other members include the R.J. Vogel, Under Secretary for Benefits; Mary Lou Keener, VA General Counsel; Dr. Lynn Goldman, Assistant Administrator, Environmental Protection Agency; Dr. Richard Jackson, Director National Center for Environmental Health at the Centers for Disease Control and Prevention (CDC), and Dr. Frances M. Murphy, Director, VA Environmental Agents Service. The Task Force is supported by a large working group that consists of experts and policy makers in VA, CDC and National Institutes of Health. Public Law 102-4, the Agent Orange Act of 1991, directs VA determine, on the basis of sound medical and scientific evidence, whether a positive association exists between the

exposure of humans to a herbicide agent and the occurrence of a disease in humans. If credible evidence of a positive association is found the Task Force will recommend to the Secretary, appropriate actions to be considered. The goals of the Task Force are to provide a thorough scientific review of the IOM report and any additional relevant scientific publications, and to apply the legislative mandates outlined in PL 102-4. The Task Force expects to complete its efforts by the second week of May and report its recommendations to Secretary Brown for his consideration. VA will keep the Committee informed and updated on all decisions related to the review and responses.

**HOUSE VETERANS' AFFAIRS COMMITTEE
HEARING ON
U.S. COURT OF VETERANS APPEALS
FISCAL YEAR 1997 BUDGET
MARCH 29, 1996**

**QUESTIONS FOR THE RECORD
CHAIRMAN BOB STUMP**

Court of Veterans Appeals

1. **QUESTION:** How do the changes in the level of funding for the Court during fiscal year 1995 and fiscal year 1996 compare to the changes in funding levels for other Federal Courts?

ANSWER: During fiscal year 1996, our fiscal situation has been unique among federal courts. We took a 4.5% reduction from our fiscal year 1995 funding level. No other federal court took any comparable reduction. The Article III courts, along with the bankruptcy and federal claims courts, received an increase of 5.6%. The Court of Appeals for the Federal Circuit, which hears appeals from the Court of Veterans Appeals, received a 6.3% increase. Other Article I courts, the Court of Appeals for the Armed Forces and the U.S. Tax Court, also took no reduction comparable to that for the Court of Veterans Appeals. The Court of Appeals for the Armed Forces received a 6.45% increase, and the U.S. Tax Court took a reduction of 2.5%, as compared with this Court's 4.5% cut.

2. **QUESTION:** In the Court's Budget Estimate for fiscal year 1997, you state that during fiscal years 1993-1995, the number of new cases filed has been, on average, slightly more than 1,200.

(A) How many new filings do you expect during the current fiscal year and fiscal year 1997?

ANSWER: In the current fiscal year, 595 new cases had been filed as of March 31, 1996. The Court has no reason to believe there will be a significant upward spike or downward plunge in the number of new cases. Accordingly, we anticipate that about 1200 new cases will be filed through September 30, 1996, and that, based on BVA predictions of increased output, 1200-1500 new cases will be filed in fiscal year 1997.

(B) How many appellate decisions did the Court issue during fiscal years 1993-1995? And how many appellate decisions does the Court expect to issue during the current fiscal year and fiscal year 1997?

ANSWER: The Court has issued 4740 appellate decisions during fiscal years 1993-1995. In addition to decisions on the merits after full briefing or upon motions for affirmance, reversal, or remand, this figure includes dismissals based on settlement, default, or the Court's determination that it lacks jurisdiction. It also includes disposition of motions for extraordinary relief. In addition, during fiscal years 1994 and 1995, the Court acted on 356 attorney-fee applications filed under the Equal Access to Justice Act (EAJA).

The Court has issued 523 appellate decisions during fiscal year 1996 (through March 31, 1996). Other things being equal, we anticipate that decisions will likely be issued at a proportional rate through the end of fiscal year 1996 and through fiscal year 1997. Factors affecting output include the complexity of the issues presented by a case and whether controlling precedent permits single-judge disposition or whether the case presents significant issues of first impression that require three-judge panel or en banc consideration.

3. **QUESTION:** In February 1995, the Court had 1,052 cases on its docket. What is the average time for a case to be pending before the Court?

ANSWER: As of March 31, 1996, there were about 1200 cases pending at various stages in the Court. About 80% of these are not ready for decision by the judges because they await actions by the parties, such as development of the record or filing of briefs. This part of the appeal process was disrupted substantially by the furloughs caused by VA funding lapses this year. That has added to the pending caseload and will add to the processing time for those cases currently in the Court.

The average case decided in FY 95 took 393 days from notice of appeal to decision. That figure includes the time needed by the parties to agree on the content of the record on appeal, the time for the Secretary's preparation of the record, and the time for briefing by the parties. The Court's Rules of Practice and Procedure have "built in" 180 days for the parties to develop the case (194 days if the appellant files an optional reply brief), and the parties frequently request and are granted extensions of time. The average period from the time briefing is finished until issuance of a decision is, therefore, just a fraction of the 393-day average (our present case-management database does not permit us to compute the averages for the separate periods). The overall average is affected by the common practice of staying the proceedings in one or more cases until this or a higher court decides an important case with a related issue.

There are two other factors which are unique to this Court: First, until a recent development in our caselaw, the Court retained jurisdiction over some cases which it remanded to the BVA. That meant that we kept such cases "on our books" until the VA postremand process was completed, often adding years to the apparent time. The effect of such cases on the processing time will not disappear until FY 1997. Second, some appellants file an appeal with the Court and then file a motion for BVA reconsideration of its decision. When that happens, the Court holds the appeal in abeyance until the BVA chairman indicates how he will deal with the motion.

4. **QUESTION:** In the Court's Budget Estimate for fiscal year 1997, you state that the complexity of the Court's caseload and case-related procedural work has more impact on the Court's staffing needs than does the size of the caseload.

(A) Has a measurable increase in procedural work occurred as a result of attorney-fee applications filed under the Equal Access to Justice Act (EAJA), which became applicable to the Court in 1992?

ANSWER: Yes, there has been a measurable increase. Through the end of March 1996, the Court has acted upon 443 EAJA applications, and several others are pending. Some of these applications present complex issues of first impression requiring disposition by an opinion issued by a three-judge panel or the full Court, acting en banc. Such issues range from determinations concerning jurisdiction based on whether the application meets the statutory criteria for timely filing and content of the application to whether the action of the Secretary was "substantially justified" (see 28 U.S.C. § 2412(d)(1)(B)), to the appropriate hourly rate for fees and whether particular costs were "reasonable" under the circumstances of the case.

The most significant impact upon the case-related procedural work, however, continues to be the high percentage of pro se appellants (still averaging nearly 80% at the time an appeal or petition for extraordinary relief is filed). The staff members of the Court's Public Office answer many telephone queries concerning procedure from pro se appellants and petitioners. The Public

Office staff also sends notices, couched in plain, straightforward language, to pro se appellants to explain what to file and when, at the various steps in case development.

- (B) In terms of any predicted increase in the complexity of the Court's workload, what will occur when BVA resumes adjudication of *Gardner* claims and when new Agent Orange and Persian Gulf War regulations are promulgated?

ANSWER: At this point, it is difficult to anticipate the effect on the complexity of the Court's workload of *Gardner* claims and claims adjudicated under the new Agent Orange and Persian Gulf War regulations. The *Gardner* cases could be fairly straightforward so long as the facts in new appeals, based on *Gardner*, fit within the legal framework set forth by the U.S. Supreme Court and the U.S. Court of Appeals for the Federal Circuit, affirming the opinion in *Gardner*. Because the Agent Orange and Persian Gulf War regulations are new, the initial cases to reach the Court will be cases of first impression, requiring precedential opinions. As necessary to decide the individual cases on appeal, the Court will look to the language of the statutes for legislative intent, will read the language of the regulations to determine whether the Secretary has acted within his statutory authority, and will review the Board of Veterans' Appeals decision for prejudicial error in findings of fact or conclusions of law. As always, the Court's mandate as a judicial tribunal will not be to set policy, but to apply the law to the facts of specific cases.

